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## House of Representatives

The House met at 10 a.m.

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

In all the moments of life or death we are grateful, Almighty God, that Your Spirit is with us to give strength when we are weak, to nurture us along life's way, and to sustain us with the promise of everlasting life.

We remember with gratitude and love our friend and colleague, WALTER CAPPS, a Member of this assembly, who died last night. We recall his winsome presence and his abiding confidence in the goals of justice for every person, of equality in the eyes of government, and of understanding and unity between people of differing traditions and backgrounds. Our prayers reach out to his family and those near and dear to him, that they will be supported by Your perfect grace, O God, and sustained by Your love and care.

Remind us, O God, of those concerns that were close to his heart, and bring us together in greater understanding until we meet again. "So teach us to number our days that we may gain a heart of wisdom" (Psalm 90:12). Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York [Mr. McNULTY] come forward and lead the House in the Pledge of Allegiance.

Mr. McNULTY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2107) "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998, and for other purposes."

### EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF HON. WALTER H. CAPPS, REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. FAZIO of California. Mr. Speaker, I offer a privileged resolution (H. Res. 286) and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. HOBSON). The Clerk will report the resolution.

The Clerk read as follows:

#### H. RES. 286

*Resolved*, That the House has heard with profound sorrow of the death of the Honorable WALTER H. CAPPS, a Representative from the State of California.

*Resolved*, That a committee of such Members of the House as the Speaker may designate, together with such Members of the Senate as may be joined, be appointed to attend the funeral.

*Resolved*, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

*Resolved*, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

*Resolved*, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The SPEAKER pro tempore. The gentleman from California [Mr. FAZIO] is recognized for 1 hour.

Mr. FAZIO of California. Mr. Speaker, let me begin by expressing the deep appreciation of all those assembled for the eloquent prayer offered by our Chaplain, Jim Ford, who is not only a great leader in times of distress but in this case a close personal friend of the deceased, our friend, WALTER CAPPS.

I hope we have an opportunity today and later this week to have many Members come to the floor to express their strong feelings about WALTER CAPPS. There is much good to remember, even though his time with us was rather brief. We have yet to even reach the anniversary of his election, and obviously he did not serve the entire first year of his term. But WALTER CAPPS had made an impact here because of his wisdom, his maturity, his sense of proportion, and his bipartisan goodwill.

A professor from the University of California at Santa Barbara for over 30 years, he came here and quickly developed the ability of a pragmatic and effective politician and public servant, without losing the perspective of someone who had spent his life studying religion and its effect on the human soul. He was truly ecumenical in his ability to communicate between religions and here across party lines.

WALTER CAPPS is the kind of individual who rarely comes our way. It is obviously a great loss when we have failed to get from his public service the benefits that we could have easily anticipated.

His wife, Lois, is here today, as she has been with him, inseparable from the moment he began his quest for Congress in 1994. We offer her our great condolence and sympathy and support, and hope that their three children, Lisa, Todd, and Laura, as well as their grandson, David, will be held in the hearts of all those who, in the next week particularly, will be praying for the Capps family.

Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. GEPHARDT], our leader.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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□ 1015

Mr. GEPHARDT. Mr. Speaker, this is a particularly difficult day for all of us who loved WALTER CAPPS and his family. It was only last week that I was able to meet with WALTER and many of his constituents who had come to Washington to be with him and to learn from him. On this particular day, WALTER was in his usual optimistic, positive, idealistic frame of mind about his district, about America and about the public service that he was so well giving for the people of his district.

I have never met someone in public life who was so grounded in their beliefs, their morals, ethics, in his religion, his belief in religion, his belief in how America and how public service could be better. He served his constituents as faithfully as anyone I have ever known. He went back to California every weekend. He was on the plane and was working for his constituents, meeting with them in the district, having meetings, listening to them, trying to understand their needs, trying to understand their concerns.

It is almost impossible to understand how someone so young and someone so talented, someone so committed, someone so idealistic could be taken from us before a year of his service had even transpired. I guess the only thing we can do to understand it is to be thankful that he had the 10 months that he had in the House of Representatives. I can say without qualification that in those short 10 months, he did as much as anyone has ever done here to contribute to his fellow Members and to represent his constituents faithfully and honestly and with great skill.

We will miss him very much. He is irreplaceable for his constituents and for all of us. We grieve with his family, his wonderful wife Lois who is here, we grieve with his children, and we grieve with all of his constituents. We know that America and the House of Representatives has been a far, far better place because WALTER CAPPS was here.

Mr. FAZIO of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. SHERMAN], a neighbor of Mr. CAPPS' district.

Mr. SHERMAN. Mr. Speaker, yesterday this country lost a leader of depth and integrity. Yesterday, we in this House lost one of our own. Yesterday I lost a role model and a friend. And yesterday Lois and Lisa, Todd, and Laura lost a husband and a father. WALTER CAPPS was the professor that we called a freshman. Most of us come to Congress hoping that we will make a contribution of which we can be proud.

WALTER CAPPS came here having already done more than most of us can hope to do. Like many freshmen, I came here and I often seek advice. When I wanted to know what was the smart political move, I never called on WALTER. But when I sought wisdom and thoughtfulness and a way of looking at things that is different from today's headlines or yesterday's poll questions, I sought out WALTER CAPPS, and he was always there.

We who hold elective office are often viewed as cynical manipulators of public opinion or as slaves to it. We are depicted as knowing more or caring more about politics than we do about substance. You can say what you will about most of us, but you cannot say all of us, because for a short time we served in this House with WALTER CAPPS, and he is everything you want us to be. He was the best of us. He will be missed.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. GALLEGLY], another representative of the south coast of California.

Mr. GALLEGLY. I thank the gentleman for yielding me this time. Mr. Speaker, I would like to pay tribute to my friend, WALTER CAPPS. He will be missed not only by those he represented but by those of us who had the opportunity to work with WALTER. WALTER and I did not always see eye to eye on every issue, but he always remained true to his beliefs and principles. His intense spirituality and dedication to his community and country will always be an inspiration to those of us that had the opportunity to serve with WALTER. Our thoughts and prayers go out to Lois, Lisa, Todd, and Laura today. WALTER will be missed. WALTER was my friend.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. TURNER].

Mr. TURNER. Mr. Speaker, as a Member of the freshman class of this Congress, it certainly saddens each of us to have lost one of our own, WALTER CAPPS. WALTER was a deeply spiritual man, a man who thought deep thoughts, a man who represented his district well and always had a quick smile for each of us as we passed his way.

Lois, we join you this morning in your grieving, and Lisa and Todd and Laura. We saw you many times, Lois, walking hand in hand with WALTER across the Capitol grounds, and you joined him on many occasions for events and committee meetings. We know that you will miss him deeply, as we will. He was a great American, a great husband, a great father, and a great friend to all of us who had the time and chance to know him for these brief few months we served together. We will miss WALTER CAPPS. The people of this country will miss WALTER. He represented the very best that we can offer.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me this time. I would like to join with my colleagues in extending our condolences to Lois and Lisa and Todd and Laura. I would like to say as a Californian that I have had the privilege of serving in this body for, this is my 17th year. I have known more than a couple of people who have served here. When I heard the

news last night from my friend HOWARD BERMAN of WALTER's sudden passing, I was struck first with how horrible, how horrible it is to hear of someone who is so young, who is just beginning what obviously is a new chapter in his life. He has only had the opportunity to serve here for 10 months. Then I began to think about how WALTER CAPPS was clearly the nicest Member of Congress I have ever met. Some Members of Congress are not very nice, but there are a lot of nice people. But I cannot think of anyone who was nicer than WALTER.

I also found him, surprisingly to many maybe on this side of the aisle, to be very reasonable. When I sat down with him and began talking about the need to reduce the top rate on capital gains, I was stunned when WALTER said to me, "DAVID, I want to cosponsor your bill." I thought, wow, here is a guy who really is thinking deeply about a lot of issues and is not having a knee-jerk response to every single thing which many people had categorized, some, as his having done. I will say that I will miss him greatly. He was a true friend to many of us. That kind of levelheaded thinking is needed more in this institution.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I am still shaken by the news of the passing of our colleague, the arbitrariness of it all, and almost the whimsical nature that someone so vibrant and so healthy could all of a sudden be gone. I think WALTER had something very instructive for the rest of us. I remember first hearing about WALTER from a friend of mine, a former legislator from the area, Gary Hart, who told me about his background. I thought, how does somebody with this background and this perspective win a tough election? One message of WALTER's life is that one does not have to trim his sails, one does not have to compromise his fundamental principles to win a tough election, that he goes out there and says what he thinks and convinces people of the wisdom of his ideas and the principle and depth of his conviction, and he can be successful in the political process.

Another thing WALTER meant for me was sort of the serenity in the midst of all the frenetic behavior that exists in this business and in this Chamber, that this was somebody who could maintain his serenity and his perspective and his fundamental calmness in the midst of all of that and analyze and judge and make decisions sort of as if he were almost apart from all of that frenzy that goes on here.

Lois, you and the children perhaps more than anybody have the ability to continue WALTER's legacy in whatever you choose to do. I know you will miss him greatly. We all will. Our thoughts are with you.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. Mr. Speaker, I would like to echo the sentiments of what some of the other people have said today. Mr. CAPPS certainly led a very active life, a successful life as a professor. He went to divinity school at Yale. He was a trend-setter. He was the first person to teach a course on the Vietnam war. He wrote 14 books.

In his short time here he introduced legislation to help people with Lou Gehrig's disease; in an amendment to a foreign aid bill he advocated the preservation of Tibetan culture; he also introduced an amendment with conservative CHRIS SMITH to the Foreign Policy Reform Act to eliminate restrictions on United States expansion in Vietnam. But more importantly than that was really what he taught us on a personal level. I know I worked with him on an issue regarding human rights in the Sudan, but also talking about serenity in the face of adversity, reading about his response after the car accident that almost killed him. He came out of that positively and he said, "I would never wish for a car accident like this. But I have learned from it. Love and caring for one another is what is at the core of what links us."

Talking about the House, he said he wanted to promote conciliation in the House and was put off by partisan confrontations on procedure. "In the world I came from, the world of religion, people don't worry about procedure. They just give you the high ideals. The question is, what will I do? Am I being true to who I am? If I go this way, will I have violated anything that is essentially human?" That is a question today that I think we can all ask ourselves. I certainly hope that as a father I can be that type of example to my young boys.

I can tell you, I and everybody else was very moved by his relationship with his wife. Seeing you two walking around hand in hand on the weekends I think was an example for a lot of us. I certainly agree with the rest of the men and women here that he certainly will be missed. He was a great example while in his 10 months here in the House.

□ 1030

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Speaker, I thank the gentleman from California for yielding me time.

I think WALTER's election last November is a good indication that the system of America works and that a gentle person can win an election in this country, in spite of all of the kind of rhetoric we have been seeing over the years. I think the one regret many of us in this Chamber have today is the fact that the American public will not get to know WALTER CAPPS better, as many of us in this Chamber have gotten to know him.

He was one individual that when he confronted an issue, he could really un-

derstand it from an ethical and from a value system basis. As a result of that, he would have added greatly over the years to this institution and to this country.

I have to say that my friend, BRAD SHERMAN, a freshman Member of Congress, referred to WALTER just a few moments ago as a mentor. I have been here for now 20 years. This is my 10th term, and I also would regard WALTER CAPPS as my mentor, because he really understood what our country was about and certainly had the values in order to impart it upon all of us.

I give my deepest sympathies to Lois and the three children. I think all of us, including myself, the people of the State of California, and the people of this Nation, will greatly miss WALTER, but we have actually gained so much by his 63 years on this Earth.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise to pay tribute to WALTER CAPPS as well. Congressman CAPPS served on the Committee on Science for the last 10 months, and I got to know the quality of this individual during our rather lengthy meetings in an attempt, successfully, to achieve bipartisan policy to advance the cause of science and education.

Mr. CAPPS was a tremendous asset to the committee, not only because of his ethical principles, but also because of his background in education and knowing what works in the educational arena and what does not.

But I think the true mark of this man was a conversation that I had with him about 4 months ago after a very long, productive and bipartisan session in the Committee on Science, where he told me that he was so pleased with seeing how Congress should work actually working out.

After our session in the Committee on Science was over with, he said he was invited to participate in a meeting by some people on the Democratic side of the aisle who were not quite as bipartisan in outlook as Mr. CAPPS was, and the Committee on Science has been. And he said, "You know, after seeing how productive the Science Committee was working on a bipartisan basis, I just could not attend the meeting to try to disrupt the operations of the House."

WALTER CAPPS was one of the most principled people I have ever met, and this House and this country has really suffered a great loss with his passing.

Mr. FAZIO of California. Mr. Speaker, I yield 30 seconds to the gentleman from Colorado [Ms. DEGETTE].

Ms. DEGETTE. Mr. Speaker, WALTER CAPPS had a keen intellect. He had a kind heart, and, most of all, he had a gentle soul. I know we will all miss WALTER. But for me, my service in Congress will never be exactly the same, because WALTER was my friend.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Speaker, I rise as a fellow Congressman and a fellow professor of humanities, not to mourn WALTER CAPPS, but to remember him.

In many ways, a lot of us thought that WALTER seemed out of place here. In a place that prided itself on action, WALTER was reflective; in a place that prides itself on hardball, WALTER was gentle; in a place that prides itself on its magnetism, WALTER was moral and ethical. In a place where supposedly nice guys finish last, WALTER was nice.

Yes, he was out of place here, but even in his short time, he made this a better place. His own example did that. Lois, we loved him; we love you. We will miss him.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to join in expressing my shock and grief at the loss of our friend and colleague, WALTER CAPPS. When we think of WALTER CAPPS, the overwhelming aura of the man is the fundamental decency of him. In his life and in his death, he reminds us of those things that we value most; honesty, friendship, loyalty, civility, and an unwavering dedication to the public good.

On a recent flight back to California we were sitting next to each other. We got on to the topic of religion, in which both of us having a great deal of interest in it. It was right before the Jewish holidays. We were talking about how important it is for people to know they have control over themselves and a higher power willing to help them along.

I wished he had been here longer and been able to serve in the House of Representatives and his district for a longer time, but his legacy will live on in the lives of the thousands of students that he touched so deeply.

I want to join my colleagues and the whole House of Representatives on this very sad day in expressing our condolences to his family. He will be sorely missed.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, a headline this morning read, "A California Congressman dies after being stricken at an airport." I think the headline should be, "A great American dies while in the service of his country."

Representative WALTER HOLDEN CAPPS was a professor of religion, but he was a spiritual person with a great love for his Nation. I enjoyed talking to Congressman CAPPS on the floor of the House, because his analytical mind and his sensitivity always shed the

kind of light that we should have in coming together on these very important issues.

He was the first Democrat elected in his district since World War II, but he came here with a sense of commitment to his constituents, and he exuded love toward his fellow Members.

He was a religious professor, but he had a great curiosity about science, and I enjoyed serving with him on the Committee on Science. He held a doctorate from Yale University and he shared his knowledge through 14 books, but he taught his students for 33 years.

When he ran in 1996, he was in a terrible car accident, but he came back and he won. He persevered.

We will miss WALTER CAPPS. I would like to conclude by simply acknowledging the words of President Bill Clinton, that WALTER CAPPS was a rare soul, someone able to fuse intense spirituality with a devotion to his community and country. He brought constant values, a rare perspective, and a sense of moral grounding that public life too often lacks, and we will sorely miss him.

God bless his family, God bless WALTER CAPPS, a great American, and God bless America.

Mr. FAZIO of California. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. JACKSON].

(Mr. JACKSON of Illinois asked and was given permission to revise and extend his remarks.)

Mr. JACKSON of Illinois. Mr. Speaker, let me first begin by giving honor and praise to God for the life of WALTER CAPPS. Many of us live our lives as if life is certain and death is uncertain. The reality is, life is uncertain and death is certain.

While many of us today have been given 60 seconds to talk about the life of our good friend, WALTER CAPPS, 60 seconds, 120 seconds, 180 seconds by no means can express the depth of sorrow of what this country and this House has lost on this occasion.

WALTER CAPPS could be seen in this House not so much talking to most Members of this body, but standing in the first three rows of this aisle on a regular basis talking with Dr. Ford about some of the great spiritual as well as philosophical differences that exist within this House.

Members of Congress from ages ago stood in the old House Chamber without cameras, and above the Speaker's chair is Clio there watching over the work of Members of Congress as they deliberated upon posterity of ideals of liberty for all people.

Today in the House of Representatives there is no Clio over the Speaker's chair, as WALTER CAPPS would tell us; there are simply C-SPAN cameras. So Members of Congress come to the floor, not only as representatives of their district, but they come to this floor in part as entertainers seeking reelection.

No, WALTER CAPPS was not out of place in the House of Representatives,

we are out of place in the House of Representatives. WALTER CAPPS was reflective upon the decisions that Members of this body were entrusted to make. He was a minister. He led a complete life: His outward reach and concern for God, something bigger than himself; ideals that were bigger than himself; his concern for humanity. That is why he ran for Congress and won and represented people other than himself. But also his concern, which was healthy for himself, his wife, and his children.

We will miss WALTER CAPPS, not because of the short amount of time that he spent in the House of Representatives, but because of the amount of time that he spent and the quality of that time, Mr. Speaker. We give honor and praise to God for his time well served.

Mr. FAZIO of California. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Ms. HOOLEY].

Ms. HOOLEY of Oregon. Mr. Speaker, to Lois and her children, I offer my condolences. We all suffered a great loss last night. WALTER was an absolute joy to be around. He was a devoted public servant and he was a good friend.

The first time I met WALTER he talked about the car accident, in the middle of a campaign, and it was a serious car accident. I said, "Well, what did you do and how did you carry on?" He said, "Well, I wrote a book." I said, "You wrote a book in the middle of a campaign while you were recovering from this accident?" He talked about that as the most normal thing in the world. I think to most of us, that was rather surprising.

One of the things we will miss about WALTER is the thoughtful way he approached legislation and legislative problems. We will miss his absolute unwavering commitment to the people in this country. We will miss his pleasant smile, his easygoing nature, his calmness, and, most of all, his great sense of humor.

Even though he was here only a short time, his spirit, his energy, and his commitment made a difference to all of us and to all of our lives.

WALTER, we will miss you.

Mr. FAZIO of California. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, in this House, where power is sort of compared to who serves on what committees, who has more power, I think there was not anybody in this House that was more powerful than WALTER CAPPS.

I guess at this time, when we have lost somebody, we think about how untimely death is when it comes so early in someone's life, like it did with WALTER, and we think perhaps, how are we living our lives?

Well, I can tell you, I know myself that as WALTER lived his life, that is the one thing that we can feel that was

joyful, because he never wasted a moment. He was true to himself; he was true to his heart. I think probably the worst thing in life is to feel like you live life and did not live it honestly.

□ 1045

One thing about WALTER is he lived his life honestly. He loved, as I heard some of my colleagues, he loved people.

I was really fortunate to have been able to go with him and do a few political events in his district, and accompany Lois. I think that he loved Lois so much. I just cannot recall all the times, and I know my colleagues have said it, when we walked out the door at the end of votes, and Lois, you were always there waiting for him. What a beautiful love you two had, and what a love he had for his family. I think what a love he had for his country.

I think he was a truly great American, and this country has lost a really fine American.

Mr. FAZIO of California. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. REYES].

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, today is a sad day for those of us that knew WALTER CAPPS, but I am thankful to have had an opportunity to know WALTER. I remain thankful for knowing Lois and Lisa, and I look forward to meeting Todd and Laura as well.

But I will tell the Members, my dad always used to tell us, when the good Lord brought you to this Earth, he brought you here with simply one thing, and that was a good name. He always told us, never do anything to dishonor that name, because in the final analysis when you leave this Earth, you are going to take nothing except your name and your reputation.

Today, although it is a sad day for us, I think WALTER CAPPS has taken with him not only a name that he carried with honor, a name that he took with him with honor, but a gentleman that really has redefined in this day and age what public service is all about.

I think it is important for all of us to look at WALTER CAPPS and say, we can be that way. God put him here for a reason. The reason was so we could have a standard. He set that standard for us. He may have been a freshman, but he was a giant in this House. I am very proud to have known him.

I am also proud to have had an opportunity last week to have been at a function that he was hosting for some constituents of his from his district. I am so thankful to God that I got an opportunity to say the things that I felt about him while he could still here them on this Earth. Few of us here in this House probably had that opportunity, but I will forever be grateful.

In finishing, my wife has a theory that when God needs a new angel, he calls one of us from this Earth. God has a great angel with him now. God bless Lois, and Lisa, Todd, and Laura, because through them, WALTER will never die.

Mr. FAZIO of California. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DAVIS].

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from California for yielding time to me.

Mr. Speaker, I first met WALTER when we were candidates and we were waiting to make our television appearance at the Democratic Convention, to be made up. WALTER looked at me and said, I do not know if the makeup is going to help you or not, but I do not think it is going to do much for me. So WALTER had a great sense of humor, but also a great sense of sensitivity, always talking about those things that meant much.

My best memory, fondest and perhaps last memory of WALTER was just last week. We were walking over to vote, and there was a young man with him about 12 years old who was just as excited as he could be. WALTER introduced him to me and said, this is the chairman of my youth council. These people are the future of America.

And I thought that that was just one of the greatest ways to remember WALTER, always nurturing, always teaching, and always looking forward to tomorrow. Yes, we shall, indeed, miss him.

Mr. FAZIO of California. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. BLUMENAUER].

Mr. BLUMENAUER. Mr. Speaker, like many in this Chamber, yesterday evening I was struck with a sense of unfairness and sadness, learning the news of WALTER's passing, somebody who has worked so hard to get here. Yet, it seemed to me that WALTER would have us focus on what that year meant, his passion for justice, his enthusiasm for what this body can mean.

I do identify with the remarks of the gentlewoman from Texas [Ms. JACKSON-LEE], that he is, indeed, a role model. I do not think he was out of place here at all. I think it is for us to reflect on the extent to which we measure up to the ideal that he has established for us, being reflective, honest, thoughtful, and having the enthusiasm for serving the people. I think his influence is going to be felt for as long as any of us who served with him will continue in this Chamber. I hope that he will accept the deepest sympathy for his family and many friends from Oregon. We would like to thank them for sharing WALTER with us.

Mr. FAZIO of California. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KIND].

Mr. KIND. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, we are gathered here today not to mourn the loss of our beloved friend, WALTER CAPPS, though mourn him we will and we must, but really to celebrate his life and the effect that he had on all of us here.

I am a proud member of the freshman class who entered this Congress this year with WALTER CAPPS. He made us all better. Although I knew him and

Lois for a little less than a year, I felt as if I had known him my whole life, because he was someone who I aspired to become, someone who loved and cared for his family very much, someone who was a deep thinker, philosophically and theologically, someone who had great respect for this institution, for the process of this great democracy of ours, but especially someone who had great respect and showed great interest in the individuals who make up this institution.

I will never forget, shortly after the swearing in ceremony this year, I was sitting next to WALTER and we were talking about the future, and how he exuded this idealism and his respect for this place, but also the responsibility that we all shared.

But perhaps, most of all, and this was something you could see daily, was WALTER's attempt to get to know all of us on both sides of the aisle. We would constantly see him seated next to someone, just talking to them, picking their brains, getting to know them a little bit better.

In this era of modern politics where so many of us are dedicated to destroying one another, attacking each other's character, he tried to work from the other point of view, to get to know one another, realizing that ultimately only good things are accomplished when we can work in a bipartisan fashion together, and in the best interests of this country.

Lois, WALTER will be missed, but he will never be forgotten here. Rest in peace, my friend.

Mr. FAZIO of California. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. DAVIS].

Mr. DAVIS of Florida. Mr. Speaker, this morning is an opportunity to give thanks for the remarkable life of WALTER CAPPS, and an opportunity for us to reflect on some of the amazing characteristics of a very unique man.

One of the things I will always remember about WALTER is just how incredibly strong-willed he was in a body of very strong-willed people. How else can you explain a man who, at not a terribly young age, invested the time and energy he did in two campaigns, including one while he was seriously injured, in the hospital. Yet one of the unique things about WALTER was, while he was so strong-willed, he was so incredibly selfless. WALTER invested his will in a search for the truth.

The other thing I will remember about WALTER is his quiet strength. In a place where there is a lot of noise and hyperbole, WALTER lived as an example of the power of knowledge, a belief in the power of conviction, in the power of belief. That is the way he went about conducting his business. He did so in a way that set a very powerful example for all of us.

The other thing I will remember about WALTER is his incredible peace, his incredible stillness, to me a reflection of a very rich spiritual life and a tremendous sense of self-knowledge. I

think some of us were even a little envious. WALTER knew who he was, he knew what he believed, and he simply came here to do it.

WALTER's untimely passing is our loss. Above all, WALTER was a great teacher. We were just starting to learn from WALTER. But in the short time that he has been with us we have learned a lot, and certainly the influence he has had on all of us, as lawmakers, as husbands, as fathers, as citizens, will last for a very long time.

Mr. FAZIO of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY of Connecticut. Mr. Speaker, it is with great sadness that I join my colleagues here today to honor the life of Congressman WALTER CAPPS of California. In his year in the Congress of the United States of America, he added immeasurably to the lives of those with whom he served. His thoughtfulness, his eagerness to engage in dialogue on both sides of the aisle, and his commitment to the idea that well-meaning people can reason together was an inspiration and should be a model for all us.

I met WALTER CAPPS during the freshman orientation of the 105th Congress's new Members. He was thrilled to be here. Walter was a brave man. He had run for Congress once and lost, and had the courage to run again. He was delighted to be a Member of the Congress of the United States of America. He was gracious, incredibly gracious as he introduced each and every one of us to his wife, Lois.

Most importantly, WALTER CAPPS was a man who understood governance. He understood he was part of making our democratic system work. He came to Washington to make democracy work. He wanted it to work for the country that he loved and respected. In his year here he only enhanced that democratic system he loved so much.

Most importantly, WALTER CAPPS understood the relationship between this great country and religion. He understood that that wall between the U.S. Government and our houses of worship had to be an incredibly strong wall. That should be universally understood in this body, and if WALTER CAPPS had reminded here, he would have been able to explain to every Member in this body that they should not mix government and religion. So that is one of the reasons, of the many reasons that I feel so badly that WALTER has left us, because he could have led us in that dialog.

In a way it is fitting that WALTER CAPPS left us as he did, rushing back to the Capitol to serve his constituents. My thoughts are with his wife, Lois, and with his children. I hope they will find comfort in the fact that this wonderful man had such an impact on this body in 1 year.

Mr. FAZIO of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FARR], a friend of

WALTER's and his neighbor to the north.

Mr. FARR of California. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I guess we are all in shock, considering that yesterday at this time our colleague was en route to this very room, and today he is not with us. I do not know what we all have to say, except to reflect on the fact that we serve in an institution that he campaigned to be here in a style which is remarkable, because he comes here with such unusual gifts that this institution needs. He has a doctorate. There are not many Members of Congress that have doctorates.

□ 1100

He has written 14 books. Not many Members have written any. He was an incredible human being with just a family that is the envy of everyone. And I guess as the son of a politician, I rise sort of for Lisa and for Todd and Laura, who are his kids, who no longer have a father, and for Lois, his wife, who is just a remarkable woman.

I think his life teaches that we have to take a look at this institution, at the way we treat one another, the way we treat our radical schedule, and remember that he represented on this battlefield of this floor, a peacemaker. We need more peacemakers. And we need to make sure that WALTER CAPPS, who was a gift to this institution, shall not die in vain, that in his memory this institution will better itself and that we will be more civil, that we will better treat our schedule and people who serve in public office.

Because, Mr. Speaker, he is the one who did not have to serve. He had a career in education. He chose to come here, and that is the kind of people we like to attract to this institution. But if we keep treating ourselves the way we have been, people like WALTER CAPPS will not come to the U.S. Congress. Let us not let him die in vain. Let us remember him, and to Lisa, Todd, Laura and Lois, I am very, very sorry.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan [Ms. STABENOW].

Ms. STABENOW. Mr. Speaker, I rise as someone who is very sad to be joining my colleagues today. At the same time, I am very proud to have entered the Congress with WALTER CAPPS and to have served on the Committee on Science with him.

The Committee on Science is meeting as we are here today. It is meeting about a subject that WALTER cared deeply about, and that is science education. Science education is something that we shared a great and common interest in and WALTER sat right next to me on the Committee on Science, and I will go back to committee this morning and he will not be there.

But I will always remember his wonderful commitment and intellect, the caring that has been talked about this

morning. There are so many common themes and words that we are hearing from colleagues this morning about our friend, WALTER CAPPS. His sense of humor. His strength. His quietness. His caring. His dedication.

He is a gentleman who worked very, very hard on behalf of his constituents and cared and was so proud of his wonderful family. My heart goes out to them as we grieve together and celebrate having had the opportunity to serve with him.

Mr. FAZIO of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding. It is with great sorrow that I join my colleagues in observing the passing of our dear friend and colleague, WALTER CAPPS. It was like a chill wind coming through this Chamber last night when the word spread, the unbelievable word spread that WALTER had passed away.

Mr. Speaker, my first reaction was it cannot be true. After that, how unfair. How unfair. WALTER was only here 1 year, but I thought back to his accident about 1½ years ago and, as I prayed and tried to understand why WALTER would leave us, I thought perhaps God decided at the time of the accident that WALTER would have 1½ more years to live and that would be his gift to his family and to this Congress and, therefore, to the country, because certainly, although WALTER only served here 1 year, the quantity of time he spent here was not great, the quality of the time he spent here was unsurpassed. He had a tremendous, as our colleagues have referenced, impact on this body, on our colleagues, by the dint of his personality. He was truly a gentle man. We call each other gentleman, gentlewoman; this man was a gentle man.

Mr. Speaker, I was recalling two happy incidences, one in which WALTER made others happy and one in which I saw him enjoy himself within the past 2 weeks. The first incident was a while ago during the campaign when my family and I were very honored to host a reception for WALTER in our home. And after he spoke, the people who had gathered there were so impressed, so inspired, so full of hope, that a person of WALTER's caliber and his background and his commitment would be willing to endure the rough and tumble of politics and try to come to Congress. In fact, the first response to his speech was tearful and joyful and then tremendous applause. He made us happy and hopeful.

Then just 2 weeks ago, Lois joined WALTER at the White House for the ceremony for the awards of NEA and NEH. WALTER had been a recipient of NEH, a participant in the past and he was in his glory. He was in his element. He was recognized by the people there as one of them, a man who bridged both worlds, the political and the creative and the humanitarian.

Mr. Speaker, like so many others here, I want to recognize WALTER's pa-

triotism, he certainly loved the American flag and all that it stood for; recognize him as a teacher by profession and by his nature he taught us; and say to Lois, I hope that it is a comfort to you, Lois, to Lisa, to Todd and Laura, that so many people mourn your loss, so many people recognize WALTER's worth. My hopes and prayers go out to you and I join my colleagues in extending the good wishes of the people of my district to your family and to WALTER's constituents. He loved his family. He loved his constituents. He loved his country.

Mr. FAZIO of California. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I rise to express my deep sense of loss over the passing of a great Member of this House, WALTER CAPPS from Santa Barbara. Very few of us have the opportunity to make a difference in the world. WALTER CAPPS was such a person.

Whenever I saw him, he shared a great appreciation for the best our Nation had to offer. He was a lover of the principles of democracy. He cared deeply for the people he represented.

I heard of WALTER's accomplishment as a scholar, teacher, writer, and thinker long before he came to Congress. When he came here in January of this year, I wanted to meet him because I knew he would add something different to this body. I knew that he was not a seasoned politician, but a deeply caring and sharing citizen of his community.

I knew that WALTER loved ideas and that somehow his ideas would shape the laws we make and the destiny of our democracy.

Mr. Speaker, on several occasions I had an opportunity to talk with WALTER on the floor, in the cloakroom, walking across the lawn. Just last Thursday we had an opportunity to talk, and he was so pleased to introduce me to the grandson of Cesar Chavez.

WALTER CAPPS was the personification of the best of human kind, and I think we all can learn from his example. He was our colleague. He was my friend. He was my brother.

To Lois, his wife, and to his family, we mourn with you. And as Members, we are more than lucky we are blessed we had an opportunity to know him. We will miss WALTER.

Mr. FAZIO of California. Mr. Speaker, I yield 30 seconds to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I did not know WALTER CAPPS very well. I served on the Committee on Science with him, and I found him to be a very honorable, fair, gentle man who cared about issues, who was dedicated to public service, to his country, his community, his friends, and indeed to his family.

I offer my condolences to his family. He is a man who is also very bipartisan in terms of being very fair. He will be

missed by this Chamber. He will be missed by his district, by his friends, and by his family.

As Thornton Wilder said, "There is a land of the living and a land of the dead and the bridge is love, the only survival, the only meaning." I think that WALTER CAPPS will live on in love.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan [Ms. KILPATRICK].

Ms. KILPATRICK. Mr. Speaker, I come to this podium today to join my colleagues as a Member of the freshman class with Mr. CAPPS, Mr. WALTER CAPPS, a distinguished literary man, a professor of religion, but more than that, a man who would take the issues of this Congress, listen to them thoroughly, and then let his conscience and the well-being of the American citizens determine how he would cast his vote.

Mr. Speaker, I sat with him last Thursday as we discussed the Loretta Sanchez case out in California's 46th. How worried and troubled he was that an election that could be won by some 900 votes could be simply thrown aside and castigated and, more than that, the Congresswoman duly elected be chastised and harassed after having won an election in his beautiful home State of California.

Mr. Speaker, I sponsored the Wilma Rudolph Congressional Gold Medal legislation last week, and I think my legislation might have been the last one that Mr. WALTER CAPPS was able to cosponsor. I am proud to have him as a cosponsor. I want his wife, Lois, and his family to know that all of us will remember WALTER as we carry out our congressional duties, that this Congress will be a better Congress because WALTER served here.

So, Mr. Speaker, I say to Lois and his family, "He lives and he will always live because we will always remember him. God bless you."

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I rise to extend my prayers and my sympathies to the Capps family, to Lois and Lisa and Todd and Laura. And I want to just reflect for just a minute about WALTER CAPPS, who was a man of contrasts but certainly not conflicts.

He was gentle in his personality, but strong and towering in his views. He was a professor of theology, and he was very, very strong in his faith, yet he did not preach to others.

He was an academician, but not in the ivory tower sense. He had a wonderful and very witty sense of humor. He was humble. When my colleague just mentioned that he had written 14 books, with his great sense of humor and his humbleness he might have turned to me as a member of the Committee on Science and said, "Roemer, have you even read 14 books?"

He was somebody who always sought out other people's opinions and listened to those opinions to form his own view. Yet that was not a view that was

a weak view; it was a resolute view and an informed view.

Finally, Mr. Speaker, I would say as I come from the Committee on Science, where I shared that committee with Professor and Congressman CAPPS, he worked and was dedicated to issues such as science and education. Well, now where he rests he can work on issues that he cares maybe even more deeply about. That is personal faith and world peace. May God bless you, WALTER CAPPS.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. SNYDER].

Mr. SNYDER. Mr. Speaker, it is always tragic to lose someone like WALTER CAPPS, who showed such enthusiasm for his newest challenge in life, this new career in Congress. But I will have to say if WALTER had stayed on this Earth until he was 103, his life even then would have been tragically interrupted because I suspect he would have been mastering some new skill, taking on another new challenge, inspiring those around him to do better, probably writing another dang book.

Mr. Speaker, he worked hard for his country because he loved his country. We loved WALTER CAPPS. We respected WALTER CAPPS and we will miss him.

Mr. Speaker, I noticed in the last few moments that we have heard the delightful sound of little children in the gallery. I think WALTER would have liked that.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. MILLENDER-MCDONALD].

Ms. MILLENDER-MCDONALD. Mr. Speaker, I too rise to express my heartfelt sympathy to the family of Representative WALTER CAPPS and extend my condolences and those of my constituents to his wife Lois and his children, Laura, Todd, and Lisa.

Mr. Speaker, during the time I knew him and had the opportunity to serve with him in this House, it was a pleasure. His gentle, reflective nature had a calming influence, one I appreciated during those times we have to dash to the floor to cast votes.

On one occasion, Mr. Speaker, when we were discussing the challenges of maintaining two households, one here and one in our districts, I encouraged him to consider a place in my building because WALTER was more than an educator, a father, and a Member of Congress; he was a neighbor whose civility, reflections, experience, and knowledge helped him to master a rule of the House we should all refer to more frequently: The Golden Rule.

□ 1115

For even in this House, with all the issues, the stakes and the games, WALTER would do unto others as you would have others do unto you. The great State of California has lost a great warrior of the people.

Mr. FAZIO of California. Mr. Speaker, I yield 30 seconds to the gentleman from Tennessee [Mr. FORD].

Mr. FORD. Mr. Speaker, I express my sympathies and prayers to the Capps family and the constituents of the 22d District of California.

Mr. Speaker, John Kennedy once said, I am certain that after the dust of centuries has passed over our cities, we, too, will be remembered not for our victories or defeats in battle or in politics, but for our contribution to the human spirit.

We will not have to wait for the dust to settle on the work of this great giant, WALTER CAPPS, to understand and to remember the contribution he made to lifting the human spirit of this great body of Congress. He brought a sense of spirituality to this body and was a model of integrity and generosity, indeed, a decorated soldier for humanity. The 15th verse of the 116th Psalm, Mr. Speaker, reads that precious in the sight of the Lord is the death of his saints. Oh, what a sight WALTER CAPPS must be.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MCGOVERN].

Mr. MCGOVERN. Mr. Speaker, I am very sad that this House and this Nation has lost a decent, caring and thoughtful Member. WALTER CAPPS ran for Congress and won for all the right reasons. He stood for something. He cared passionately about issues. He was principled. He was a man of strong ideals.

My wife, Lisa, and I admired WALTER very much, not only for his views, but also because he brought a special dignity to this office. This Congress and our country has lost a great patriot. My deepest sympathies go out to Lois and WALTER's entire family. WALTER has set a powerful and compassionate example that all of us in this Chamber should follow, and we will miss him very much.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Iowa [Mr. BOSWELL].

Mr. BOSWELL. Mr. Speaker, I have appreciated in our sorrow the reflections about WALTER. He was a great man. I would say to Lois and the family, remember those great and wonderful memories that you have got. In this moment of sadness, they will carry you through.

WALTER touched me many ways. He was kind of my buddy. We kind of jabbed each other once in a while about being the oldest in the class. We talked just about every day, shared a few pleasantries, tried to have a new joke for one another. But in the process, I realized that WALTER was a man of great depth.

He was a teacher. He was a writer. He was a loving person. He was very sincere. Even though he had a lot of fun, he was very sincere about life. The inscription above the Speaker's head, in God we trust, he believed that.

I think we can take some comfort in what is a favorite scripture of mine, John 14, that I go to prepare a place for you and will receive you to myself.



I think WALTER is there. I think he is watching us. I think there is a smile upon his face because he knows that he touched our lives, touched every one of us, and our lives have been made better because of WALTER CAPPS. So may the good Lord bless him and may we remember those good times and appreciate him, is my thought.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, rare, but from time to time we will meet someone whose decency, intellect, and integrity leave upon us a permanent impression. Such was the case with WALTER CAPPS for me.

The House of Representatives, on any given day, can be a very tough, rough and tumble place, and yet during the visits I would have with WALTER at the back of the Chamber, somewhere across the face of this Capitol campus, I would always come away feeling better, feeling a little calmer, a little more upbeat because of his person. He was so good that he just left you feeling better for having talked to him.

Some try in this place to lead by angry bombast. With WALTER, it was the case of leading by quiet, dignified example.

To spend any time with him, you would just simply gather a sense that WALTER had a great sense of personal balance. Watching the beautiful friendship, the loving friendship he had with his wife, Lois, his inseparable companion during his time here, left that impression ever so clearly.

WALTER, you were not here long but by virtue of the man you were, you have touched our lives and in the process you have uplifted the people's House of Representatives.

God bless you, WALTER.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Speaker, as a new Member of Congress, I am proud to be part of a class which included WALTER CAPPS of California. He was a man of decency, integrity, and perseverance. His passing is a loss for Lois and the family, and it is a loss for our congressional family.

He had an easygoing style and grace, a light which emanated from his smile and his humor. He was a gentleman in the finest sense, gentle. May he go gently into the light.

God bless you, WALTER.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Maine [Mr. ALLEN].

Mr. ALLEN. Mr. Speaker, I come from the other side of the country from WALTER and Lois Capps, but Diana and I count as one of the blessings of this job the chance that we had to get to know both WALTER and Lois. We will miss him.

I am told that his class on the Vietnam war at the University of California Santa Barbara, taught annually, had the largest enrollment on campus

and reached more students than any other course in the entire University of California system. Knowing WALTER, I believe that. I understand that.

He brought a decency, a compassion and honesty about this business to this House that was a credit to him and to the citizens of the 22d District of California. He cared deeply about education, that was his background. But he also, because he came at this time of life that he did, he was not caught up in all of our partisan battles. He really was here to do good, and he did it as long as he was here.

I was talking to a member of my staff a moment ago. She said she met him once and he was a kind soul. She said it well. He was a good and kind and strong gentleman, and we will miss him.

Mr. FAZIO of California. Mr. Speaker, I yield 30 seconds to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Speaker, I just want to say a word or two to Mrs. Capps and the kids.

This is a remarkable hour. Not many people could spend 1 year here and have this many Members say what they are saying. Most of us, we are here 10 years, 20 years, not this kind of thing would occur for them.

He aimed well. He succeeded.

God bless you.

Mr. FAZIO of California. Mr. Speaker, I yield 30 seconds to the gentleman from Rhode Island [Mr. WEYGAND].

Mr. WEYGAND. Mr. Speaker, those of us who came in as freshman class Democrats came from all parts of the country with different viewpoints and different backgrounds. I think when we all first came here, we kind of looked for someone, someone that we could always associate with. That person happened to be WALTER CAPPS.

He was like a soul mate to all of us. Whenever you spoke with him, you always felt at ease. Whenever you talked with him about an issue, he always understood and you always had a sense that, in fact, you were connecting. I guess he always had that ability to do so. He was such a loving man, a man of family, a man of community.

But I think most of all, he was a man that we remember, a man of decency. In a Chamber that is often characterized by yelling, screaming, and finger pointing, WALTER CAPPS was, in fact, perhaps the best image that we could ever have, a true man of decency, and we will miss him.

Mr. FAZIO of California. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I welcome the opportunity to pay tribute to the memory of our late colleague. Congressman WALTER CAPPS of California's untimely passing yesterday has brought sorrow to all of us.

As an active member of our Committee on International Relations, WALTER CAPPS brought a wealth of wisdom and experience developed during his career that spanned 33 years as a profes-

sor of religious studies at the University of California in Santa Barbara, including the authorship of more than a dozen books.

WALTER had a special interest in the study of conflict resolution, a subject that is of particular concern to us in the field of international relations. His strong record of constructive participation in the work of our committee and on the floor of this body demonstrated his deep commitment to the work of the Congress.

Congressman WALTER CAPPS, in his dedication to public service, was a man distinguished by gentleness who cared deeply for others. The House is greatly diminished by his loss. Our heartfelt sympathies and condolences to go out to his wife, Lois, and their three children.

Mr. FAZIO of California. Mr. Speaker, I yield 30 seconds to the gentleman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, I join with my colleagues in expressing our very sincere condolences to the Capps family, to the residents of WALTER's district and really to this country, because WALTER was a special person.

WALTER was an honest man in a time when some of us see things but fall short of that. He was honest intellectually. He loved this job. And in all the discussions I had with him, he talked about what a great honor it was to share the power and the hope and the ideal of this country with people who felt that they were left out.

I can remember nights walking through the halls when he would be showing young people from his district this building and explaining the majesty of the Congress and making them feel that they owned it as much as anyone in this country. To Lois, we honor you for all you have done with WALTER. He could not have done it without you.

We miss you, WALTER.

Mr. FAZIO of California. Mr. Speaker, I yield 30 seconds to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I just want to join with my colleagues, to the family, to give our concern and our love. He was a special individual on the committee. From the first day there, he brought with him an intellect that is hard to match and an understanding of history and the courage to follow those convictions through.

We often have Members that have courage. We often have Members that have an understanding of history, but they never seem to be quite as joined as they were in WALTER, a great sense of what has happened and where we should go, the courage to stick with it.

It always, I think, brought us great joy to see WALTER and his wife around the Capitol together. It was a privilege to serve with him on the Committee on International Relations.

Mr. FAZIO of California. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Speaker, when I returned home last night and told my



wife the sad story about WALTER CAPPS leaving this place, the first thing she asked was about Lois.

A lot of us, in the 10 months that we were here, did not know WALTER CAPPS all that well. I got to know him a little bit at Hershey, he and his wife both. He was an honest, decent guy that worked so hard for his constituents back in California. He was well-respected on both sides of the aisle. We are going to miss him.

Like a lot of Members in this House, he was not flashy. His name was not a household name. But I think it was his courage and wisdom and thoughtfulness that, in fact, made a difference for not only his constituents, but for this House as well.

We are going to miss him. We wish Lois and his family the very best in our prayers.

□ 1130

Mr. FAZIO of California. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio [Mr. STRICKLAND].

Mr. STRICKLAND. Mr. Speaker, John Gardner has written that "some people strengthen this society just by being the kind of people they are." WALTER CAPPS was such a person. I would like to say that some Members strengthen the House of Representatives just by being the kind of person they are, and WALTER CAPPS was such a Member. I admired him greatly.

And Lois, I would like to say that when it comes time for me to leave this Earth, I hope that people can feel about me the way we all obviously feel about your WALTER.

Mr. FAZIO of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Washington [Mr. McDERMOTT] has said, this has been an extraordinary outpouring of sentiment during an extremely busy time of a very busy day at the end of the session; and it is totally appropriate for WALTER CAPPS.

I had the privilege of working with him during his two campaigns for Congress. The first real communication I had with him was by computer. He sent me a message from Santa Barbara. It said, "You cannot imagine how entirely irrelevant the material you are sending me is."

As chairman of the DCCC, I realized he not only had a great sense of humor, he also had a very incisive intelligence. And I came to respect his different approach, a successful approach which we have all come to appreciate.

I saw him among his constituents from Santa Maria the other day, not the bastion of WALTER CAPPS' support in his first two races for Congress. But I could tell you, I could see the growing pride, the clear respect those constituents had for his efforts and his service here. I know the leaders of that community, largely of the other party from WALTER's, were looking forward to his reelection. And the depth of feeling about his passing will be felt just as

strongly there as it was in Santa Barbara.

We have talked about his introduction of legislation on Lou Gehrig's disease, and the time he spent in the hospital recovering from a near fatal auto accident, during which he wrote a book. But we do not know that the reason that he introduced that bill was because, during his time in the hospital, he befriended an individual suffering from Lou Gehrig's disease and learned from that man things that brought him to that introduction when he became a Member of Congress.

WALTER was always sensitive to those around him, always learning and doing what he could to be helpful. I was most impressed not just by the vote he cast, but by the process he went through struggling with the question of how to vote on the constitutional amendment on flag burning. There were many who assumed they knew how WALTER CAPPS would vote on that issue. But WALTER CAPPS went in depth to his family and his friends and the veterans he knew so well and decided, contrary to my view, I might add, to support that amendment. And in doing so, I think he sent a message to all of us that he was here for the people and he was going to be independent in his judgment on every issue.

There was no typecasting WALTER CAPPS. And that is why this incredible loss will be felt most of all when we debate those questions of church and state, the interrelationship of our religious faith and our belief in democracy and free speech. His loss there will have to be compensated for only by his writings.

And so we, I think, all feel a tremendous loss for a man who spent all too little time with us but made an incredible impact on us.

Mr. ROTHMAN. Mr. Speaker, this morning I wish to join with my colleagues in mourning the loss of our friend, Congressman WALTER CAPPS.

First of all, allow me to extend my heartfelt condolences to his wife Lois, and his children. My thoughts and prayers are with you in this time of loss.

WALTER CAPPS lived a rich and vigorous life, serving his community in several different capacities. As a young man in Omaha, NE, he learned the value of a hard day's work with Union Pacific Railroad and by delivering newspapers and painting houses. As a professor of religious studies at the University of California, Santa Barbara, he emerged as a national leader in the study of peace and conflict studies, veterans affairs, and American democracy. And while at UCSB, he also developed one of the first college curriculums on the history, experience, and ramifications of the Vietnam war. Furthermore, he was very active with community service organizations in the Santa Barbara area and in his own Lutheran church.

WALTER epitomized the type of individual we all strive to be, not only as Members of Congress, but as human beings. In a time where petty partisan wrangling has engulfed this body and prevented us from doing the people's work, WALTER CAPPS exuded a sense of

humility, compassion, empathy, and inner peace that we all should endeavor to attain. Refusing to subscribe to the lowest common denominator of discourse, he spoke from the heart, challenging all of us to see the big picture and work for a world where harmony, reconciliation, and scholarship are more common than conflict, ignorance, and economic disparity.

While campaigning to represent the people of the 22d Congressional District of California, WALTER CAPPS often spoke of the broken bond of trust between the people of the United States and their government. He believed that Americans deserve a government as good as the people it serves and that idealism has a place in Washington, DC. Therefore, in the memory of WALTER CAPPS, I challenge each and every Member of this House and every Member of the U.S. Senate to seize this idealism and begin to work for a nation that WALTER would have been proud of: a place where social divisions melt away into a national community coming together to solve its problems in a constructive, thoughtful, and compassionate manner.

It was a great honor to serve this Nation with WALTER CAPPS and to have gotten to know him and work with him however briefly. His loss is a wound that will not heal swiftly. It is my hope and prayer that this House will carry on his legacy and always remember and live up to his expectations and grand vision of the potential of the Federal Government and of humanity.

Mrs. MALONEY of New York. I rise to share my condolences with the family of WALTER CAPPS—Lois, Lisa, Todd, and Laura—and with every member of this House because we've all lost a true contributor: A man who legislated from his soul.

We are all left shocked and sorrowful at his death. But there was perhaps no one more prepared for this moment than WALTER himself. Elected officials often suffer from erosion—outside forces chip away at our thoughts, and work to influence our actions.

But WALTER didn't work from the outside in—he worked from the inside out. His studied philosophies, his moral strength and his writings have left us with an example to follow in our professional lives.

His sincerity, and that twinkle in his eye, have left us with fond memories to carry home.

Mr. PAYNE. Mr. Speaker, I rise to honor the memory of my friend and colleague, Congressman WALTER H. CAPPS. Although Congressman CAPPS was with us for a brief period of time, he left his mark in Congress and on the world. Congressman CAPPS and I both served on the Committee on International Relations which he joined in 1996. When Representative CAPPS joined the International Relations Committee he did so because of his commitment to changing and making a difference in the world with all people from all races and religions. Although he was with us for a short period of time, he touched many lives. CAPPS was a prominent figure in the circle of human rights and fundamental freedoms for all peoples but he was especially concerned with the growing human rights abuses of the Chinese officials toward the Tibetans. I think that during the visit of Jiang Zemin this week, we should be mindful of the things that Congressman CAPPS stood for—the right of a people to live in peace and the right of a people to determine their own future.

Congressman CAPPS was a spiritual and devout man who taught religious studies at the University of California at Santa Barbara for 33 years. His pioneering spirit led him to write several books. He was best known for a well-known course he taught on the Vietnam war.

CAPPS had a subtle drive. He had a civil, congenial nature, that became contagious whenever anyone was in his presence. He was admired by many of his colleagues and friends for his gentle and deferential nature. In committee hearings, he would often question the inhospitable nature of members and would encourage bipartisanship. Although it was difficult for some of his colleagues to see an answer to a problem, he would help solve disputes with amicable diplomacy and resolve.

He was respected and admired by many people. CAPPS has left a legacy and an enlightened path will be difficult to follow.

Mr. DOOLEY of California. Mr. Speaker, I rise today in memory of our colleague and friend WALTER CAPPS, whose generosity of spirit enriched this Chamber, the State of California, and this country immeasurably during his tenure in the U.S. House of Representatives. He brought to this House the same intellectual rigor and deep compassion that allowed him to excel as a professor of religious studies at the University of California at Santa Barbara, as an author, as a U.S. Congressman, and as a husband and father.

Representative CAPPS was a man of patience and principle whose leadership in the House, while brief, had a significant effect on his colleagues. He did not enjoy conflict, yet he fought with passion and sensitivity for the issues he felt were crucial to his constituents and to his own conscience. He did not make decisions lightly, but, once decided, his opinions were profoundly argued and vibrantly supported by his actions. He did not consider himself a politician, and resisted the deal-cutting and personal attacks that represent the worst part of government. Yet he himself represented the best of what politics can be, as an independent thinker, a sympathetic listener, and a devoted advocate for the concerns of his constituents and of all Americans.

WALTER was a man of faith, not only of the spiritual kind, but of the political kind. He had faith in the democratic process, and had faith that it would allow him to be elected even after an initial defeat. His victory proved to all of us in California and across the country that voters will choose substance over style, and that true leadership will be recognized no matter what the odds.

To Lois and his children, I offer my sincere condolences, with the hope that they may find comfort in the tremendous good WALTER has done in this House and within the 22d District of California. He will be truly missed. I ask my colleagues to join me in paying tribute to the memory of our colleague, the Honorable WALTER CAPPS.

Mrs. LOWEY. Mr. Speaker, I rise today to honor WALTER CAPPS.

Those of us in this House were privileged to know and serve with WALTER this past year. This institution is diminished by his passing.

Just recently WALTER and I worked together in an effort to prevent imported assault weapons from flooding our streets. WALTER was undeterred by the political risks involved with taking on this issue because he was here not merely to occupy a seat—but to make a difference.

As a professor, he understood the value of education and the importance of history. He brought thoughtful convictions and a gentle manner to an institution too often characterized by bluff and bluster, and reminded us all of the importance of decency and integrity.

My thoughts and prayers go out to Lois and her children. WALTER made a real impact here and he will be missed.

Mr. MALONEY of Connecticut. Mr. Speaker, I'd like to take a moment to honor the tremendous accomplishments of a special man, a friend, and a dedicated public servant, WALTER CAPPS.

I had the great pleasure of entering Congress with WALTER. At a time when, as a freshman class, we were embarking on a remarkable privilege and profound challenge, WALTER's warm and caring nature, constant humor, and analytical mind truly added a great deal to our process. Most important, WALTER's strong commitment to getting the job done for America's families without engaging in partisan politics is truly to be commended: WALTER's priority was always focused on making a difference in the lives of the families of California's central coast. Whether improving education, saving Morro Bay, supporting Vandenberg Air Force Base, or protecting seniors, WALTER's strong commitment to his constituents always took first place in all he worked for and accomplished.

At a time when new Members of Congress are working hard to break with the politics of old and create a new more cohesive and productive atmosphere, WALTER will be greatly missed, but his contributions will never be forgotten. My thoughts go out to his wife Lois, three children, and grandchild.

Mr. SENSENBRENNER. Mr. Speaker, it was with great sadness that I learned of the death of WALTER CAPPS, my colleague in the House and a member of the Science Committee, which I chair. WALTER died yesterday of an apparent heart attack after arriving at Dulles airport upon returning to Washington from his California district.

Before his election to Congress, WALTER was a professor of religious studies at the University of California at Santa Barbara. He also established and taught the first college course on the Vietnam war. His lifelong commitment to education was evident to everyone who knew him. His experience as an educator was a tremendous asset to the Science Committee and our work to improve science and math education.

I was particularly impressed by the integrity and honesty that WALTER CAPPS displayed at all times. I recall a conversation I had with WALTER after a particularly successful bipartisan markup we had in the Science Committee earlier this year. He told me he was impressed by the bipartisan spirit and focus on policy over politics and he hoped that it would catch on in the House. Displaying the integrity that I particularly admired in WALTER CAPPS, he indicated to me that he was going to skip a meeting later that day with Members of his own party that he believed to be intent on promoting partisan politics.

WALTER was a pleasure to work with and will be missed as both a friend and a colleague. I know that all of the Science Committee members would want to join me in extending our sympathy to his wife, Lois, and three children, Lisa, Todd, and Laura.

Mr. TRAFICANT. Mr. Speaker, yesterday this body lost a great Member. The passing of

WALTER CAPPS will be felt deeply by all of us. He was a wonderful man, dedicated to making a difference. He will be missed terribly.

WALTER was not a politician. He was an academic at heart, and it was his background in academia that enabled him to bring a unique viewpoint to Congress. His expertise in the study of the Vietnam conflict and conflict resolution earned the respect of his colleagues, and enabled him to play a significant role on the International Relations Committee, even as a freshman.

A truly remarkable individual, WALTER was deeply affected by the 1996 car accident, which left him temporarily in a wheel chair. From this tragedy, he learned a lesson that many of us would have overlooked, that loving and caring for each other was what mattered in the end. He carried this perspective into his daily work on the House floor. Determined to protect those individuals who could not help themselves, WALTER would always cast his vote to protect the most vulnerable in our society. He truly believed that even if reform was called for, the Government must not abandon what he felt to be its mandate: to help families and individuals who could not help themselves. This kindness, compassion, and genuine concern for his fellow man was evident in all that WALTER said and did.

I would like to offer my deepest condolences to WALTER's wife, Lois, and to their children. At this time of great sorrow please know that you will be in the thoughts and prayers of myself and the other Members. I hope that you can take some small comfort in knowing that WALTER was admired and respected by all who came in contact with him. He truly was a great man, and I am honored to have known him.

Mr. HOYER. Mr. Speaker, I rise today with a heavy heart to share the intense grief of my colleagues over the passing of WALTER CAPPS. This is a truly sad day in the Congress and a truly sad day for our country.

In a body often riddled with cynicism, WALTER CAPPS stood above the crowd as a straight-forward man of integrity and honor. Grounded in his own deeply moral and ethical beliefs, he served as a shining beacon to us all on the virtues of conciliation, kindness, and compassion.

Before entering the Congress, WALTER gained national prominence on the stage of academia. He spent 30 years as a professor of religious studies at the UC-Santa Barbara, where he authored 14 books, became widely known as an expert on religion, conflict resolution, and American democracy, and developed an extraordinarily popular course on the Vietnam war that brought together soldiers, protestors, and Vietnamese refugees. He brought this unique perspective on politics and on life to the Halls of Congress, enriching the atmosphere and heightening our collective sense of dignity and comradeship.

The Santa Barbara News Press describes WALTER as a Congressman who sought to personalize American politics and bring civility back to the discourse on Capitol Hill. This sense of purpose was a common thread running throughout WALTER's personal and professional life. WALTER's tireless work on behalf of his congressional district, traveling back to California every week, listening to and connecting with his constituents, represented his uniquely personal brand of politics.

Mr. Speaker, it is never easy to lose a colleague or a friend. But, our grief is overshadowed by those that knew WALTER on a more personal level. It is my sincere wish that his wonderful wife Lois, and his children Todd, Lisa, and Laura, take solace in the knowledge that WALTER was so highly respected and revered by his peers. Today's outpouring of emotion on the House floor accurately reflects the high esteem with which WALTER was held.

WALTER will be missed by this body, and he will be missed by a county seeking the values and commitment to civility he so fully represented. While only here in Congress a short while, I know that WALTER CAPPS has made a lasting impression upon us all.

Mr. MILLER of California. Mr. Speaker, I rise today to express my shock and profound sadness at the sudden passing of our friend and colleague, WALTER CAPPS. I send my most sincere condolences to WALTER's family and I wish to let them know that he will be missed and fondly remembered.

Like many of us here, I came to know WALTER when he decided to run for office in the 1994 elections. Even before meeting him during the campaign, word traveled from California to Washington that a respected professor and an exciting man wanted to represent the people of Santa Barbara in Congress. We were told that he was smart, compassionate, and would fight hard for his beliefs and his community.

Advance praise for WALTER CAPPS was not undeserved. My only regret was that we did not have more time to work together and to become better friends. Some of my most recent memories of WALTER include standing together on the steps of the Capitol one sunny day this month demanding a vote on campaign finance reform. And, one day while walking across the street to vote on another matter, WALTER and I discussed the brewing controversy over the future of the ranch in Santa Barbara owned by the Reagans.

WALTER was well versed in matters both local and national and I believe he would have been one of our great Members of Congress had he only had the chance.

WALTER, I will miss you. We will all miss you. I am proud to have known you and to have served with you and I will do my part to see that your dreams for our country are realized.

Ms. HARMAN. Mr. Speaker, I join my colleagues in paying respect to the memory of WALTER CAPPS.

WALTER was an especially decent man, one of the few freshmen to make an immediate impact upon arrival. That impact was based on a strong sense of moral purpose and a grounding in the belief that Congress could solve problems without resorting to partisanship or one-ups-manship. With WALTER's sudden passing yesterday, a bright light has gone out.

Mr. Speaker, we are fortunate to have had WALTER here in Congress, even for a brief time. Sidney and I express our deepest sympathies to his wife, Lois, and the Capps family.

Mr. FAZIO of California. Mr. Speaker, I yield back any time I may have remaining.

The SPEAKER pro tempore (Mr. HOBSON). Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid upon the table.

#### GENERAL LEAVE

Mr. FAZIO of California. Mr. Speaker, I ask unanimous consent that all Members have 5 days to revise and extend their remarks in the RECORD referencing the passing of our friend, the gentleman from California [Mr. CAPPS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now entertain 1-minutes.

#### PRESIDENT CLINTON MEETS WITH PRESIDENT JIANG ZEMIN OF CHINA

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, as I speak, the President of the United States is meeting with President Jiang of China. The people of the United States and the people of China share many interests and hopes for their futures.

I voted for MFN because I believe that trade is one way we can influence the people of China to force their Government to give up its authoritarian ways. But as the President of China meets with the President of the United States, one message must be sent loud and clear: That the United States will not condone China's persecution of people for their religious and political beliefs.

I am especially appalled by the treatment of Pastor Xu Yongze, who has been tortured and unjustly imprisoned simply because of his religious beliefs. Pasture Xu is a widely respected, mainstream pastor, often called the Billy Graham of China. He does not deserve this kind of treatment.

So I urge President Clinton, Mr. Speaker, to convey this simple message to the President of China: If China wants to be a respected nation in the world, it must give up its persecution of innocent people who simply want a chance to practice their religion in peace.

#### COMMUNIST CHINA SHOULD FREE RELIGIOUS PRISONERS

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, in an apparent effort to illustrate its commitment to human rights during President Jiang Zemin's visit to the United

States, the Communist Chinese Government just released a Roman Catholic bishop from prison. My question is this: What the heck was a Roman Catholic bishop doing in prison in the first place?

The answer, of course, is that Bishop Su is a priest in what is known as the underground church, a church that does not take its orders from a Chinese dictatorship.

I hope that between the champagne toast over at the White House, President Clinton does not forget to remind his guests that Communist China still has a long way to go when it comes to religious freedom, and that if the dictatorship wants our Government to take them seriously, they will open the prison doors and release all those believers they have jailed because they dared to practice their faith.

Mr. Speaker, China and the world is watching.

#### TRIBUTE TO REPRESENTATIVE WALTER CAPPS

(Mr. BECERRA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BECERRA. Mr. Speaker, I wanted to add my words on behalf of a friend and someone who unfortunately has left us, Mr. WALTER CAPPS.

WALTER, as most folks also remember, ran earlier in 1994 for election and did not win. He barely lost. And in 1996 he did win. I attribute his first loss to the fact that he did not run as a politician. I attribute his win the second time because folks finally had a chance to see shining through the real qualities of this gentleman. He came up here to serve, and he came up here as Mr. Smith in that movie came up here to serve, and it is unfortunate that he is gone.

Most folks do not recognize, as well, that a year and a half ago WALTER nearly lost his life in a car accident that almost took his wife's life, as well. He survived that, and I felt the Lord kept him here for a reason. Perhaps now, with his death, maybe he did; maybe he now wants us to take a look at not just what it means to live, but also what it means to die.

I am very saddened to lose a friend, WALTER CAPPS. I think this whole institution is saddened. Unfortunately, the American people, as they did not know about his near fatal car accident, as they did not know about his first loss, probably did not get enough time to know this man, who would have been a unique and essential man to the Congress of the United States. I extend my condolences to his family.

#### ON ISSUE 2 IN STATE OF OHIO

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, there is an issue in the State of Ohio which I

wanted to call to the attention of the Members. The State of Ohio has on the ballot an issue, issue 2, which would severely restrict the right of people to be able to collect once they are injured on the job.

I believe that workers have many rights, and one of the rights which workers have is to be able to be fairly compensated when they are injured on the job. Issue 2 in Ohio would really affect that right of injured workers. It would stop women, for example, from being able to be fairly compensated for repetitive motion injuries. It would cut the amount of time that people would be able to apply for benefits. It would cut the amount of time that people would be able to, in effect, file a complaint about an injury they received on the job.

In this Congress we are here to protect our constituents. And as someone who is very concerned about workers' rights and about people's rights to be able to be compensated if they are injured on the job, I am voting against issue 2 in Ohio. And I am hoping all those people in Ohio will recognize that they should do the same, to vote "no."

#### ON SECTION 245(I)

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, today we will be voting on preserving an important immigration provision, section 245(i), 245(i) benefits America. The U.S. Chamber of Commerce and major American corporations such as Xerox, Microsoft, and Ford strongly support the extension of 245(i). These American businesses know just how essential well-skilled and qualified immigrants are to our economy as they cause our businesses to prosper. They, too, are American consumers and innovators.

The reality is that if 245(i) is not extended, the only thing that we would be hurting would be the productivity of our country; 245(i) helps especially to keep families together. It especially helps businesses to retain skilled workers. It brings up to \$200 million a year to our Treasury. And 245(i) does not give special benefits to illegal immigrants.

The U.S. Senate has voted to extend this provision. I urge my colleagues to support America and help keep families together by extending 245(i) today.

#### PRESIDENT JIANG ZEMIN ENTERTAINED AT WHITE HOUSE

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, today President Jiang Zemin is being entertained at the White House. The plight of the people of China and Tibet is a challenge to the conscience of the United States.

So I would join my colleagues in reminding President Clinton that when he toasts President Jiang Zemin, that he not forget that Mr. Jiang Zemin is directing the torture of many prisoners of conscience in China as the State dinner proceeds.

And as the Clinton administration gives the 21-gun salute to President Jiang Zemin today, which the Chinese Government insisted upon, that President Clinton and all those assembled remember the shots fired in Tiananmen Square. By the way, the bullets that killed the young demonstrators, the bills for those bullets were sent to the families as a cost to them for killing their children.

And I hope the President and those gathered will not forget the millions of people in labor camps for their religious and political beliefs. Prisoners of conscience are told that nobody knows about them and that nobody cares. That is a painful form of torture.

But we all remember Wei Jingsheng and Wang Dan and so many others in prison, and I hope that President Clinton will have them on his mind as he toasts President Jiang Zemin today.

#### GIVE PARENTS A CHOICE ON EDUCATION FOR THEIR CHILDREN

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, if you want to improve the quality of computers, how would you go about doing it? If you wanted to see engineering innovations in the car you drive, what do you think might produce them? And if you wanted to see your daughter become a national caliber gymnast, what conditions might lead her to become one?

The answer is quite simple. It is called competition. Humans respond in a positive way to competition because competition brings out the best in us. Competition makes us work hard. It forces us to achieve wonders that we never even dreamed possible.

Microsoft, Ford, and Mary Lou Retton all responded to competition by changing the way they did things. Windows 95, the Taurus and Olympic gold medals are the products of endless striving, experimentation and the pressure to excel among one's competitors. Surely the education of our children is important, important enough to demand competition in this area of life, as well.

It is time to let competition bring out the best in our children's education by giving parents a choice on which school their children attend. After all, Mr. Speaker, our children deserve the best.

#### FREEDOM FROM RELIGIOUS PERSECUTION ACT

(Mr. STRICKLAND asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, I am a proud cosponsor of the bill of the gentleman from Virginia [Mr. WOLF], the Freedom From Religious Persecution Act. I believe as the Chinese leadership is in this country meeting at the White House, the most appropriate response for those of us who are concerned about human rights abuses and the persecution of those in China simply because they wish to practice their religious faith, the most appropriate response for those of us who are Members of this House would be to sign on as cosponsors of the Wolf bill.

□ 1145

We need to send a message to the Chinese government and to the Clinton administration that we will not continue to tolerate the religious persecution of people of faith in China and throughout the rest of the world.

#### VISIT OF CHINESE PRESIDENT

(Mr. RYUN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN. Mr. Speaker, in 1992, Candidate Bill Clinton denounced President George Bush for "coddling tyrants." This week he will welcome Chinese President Jiang Zemin with a 21-gun salute and State dinner, something no American President has done for a Communist leader since the Tiananmen Square massacre. Since China's Communist army opened fire on unarmed democracy demonstrators in 1989, America has been outraged at China's flagrant abuse of human rights.

In addition to human rights abuses, China poses a serious threat to peace. The Chinese Government is modernizing its navy and its air force to expand their offensive capability and extend their reach. Although China signed a nuclear nonproliferation treaty, it continues to transfer arms and nuclear technology to Iran and Pakistan. President Clinton has indicated that he will certify to Congress that China has halted all exports of nuclear technology, something that the Reagan and Bush administrations refused to do.

Mr. Speaker, it is high time that the United States Government establish a policy for dealing with the government of China. It is not time to throw State dinners and to deliver 21-gun salutes.

#### LET LORETTA SANCHEZ GO

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to say to you, to the chairman of the Committee on House Oversight and to the Republican Members of the House, let LORETTA SANCHEZ go. Stop holding this woman hostage in your game of political terrorism.

The voters of California's 46th Congressional District cast their ballots last November. They voted Bob Dornan out and LORETTA SANCHEZ in by nearly 1,000 votes. The election was certified by the California Secretary of State. A lengthy recount requested by Mr. Dornan showed no change in the outcome.

Then came Mr. Dornan's charges of voter fraud. Yet almost a year after the election and after expending hundreds of thousands of dollars in taxpayer funds, Republicans have yet to show any evidence of voter fraud.

Mr. Speaker, the time has come to give up the charade. Stop this mockery of an investigation, stop the harassment, stop the intimidation. Let LORETTA SANCHEZ go. She won her seat in the House fair and square. Put up your evidence or drop this ill-conceived investigation. Stop it and end it now.

#### NUCLEAR WASTE POLICY ACT IS A BAD BILL

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, today this body will consider a bill that will mandate transportation of the world's deadliest material through nearly every community in this Nation. How can this bill that will send nuclear waste through our national parks, over our rivers, near schools meet the environmental standards of this country? The answer is simple. It cannot, it will not, it never will. H.R. 1270 ignores these requirements. This bill is in direct violation of the National Environmental Protection Act, the Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act, to name a few.

Knowing of this bill's blatant disregard for the environmental safety, I offered an amendment before the Rules Committee that simply stated H.R. 1270 must comply with current environmental laws. It was rejected. It was rejected because if it was debated on this floor, it would pass. It was rejected because the nuclear power lobby spent \$13 million making sure the Members of this body who oppose this bill will never have a voice in opposition heard. Vote "no" on this bill.

#### VOTE NO ON NUCLEAR WASTE POLICY ACT

(Mr. ENSIGN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENSIGN. Mr. Speaker, I also rise to talk about H.R. 1270, not Yucca Mountain but the interim storage of nuclear waste. A lot of people are getting it mistaken.

Every major environmental group in the United States is opposing H.R. 1270. Why? Because H.R. 1270 is ignoring all of the laws in the United States that protect us. We are talking about the most dangerous substance known to

mankind, but the Republican leadership even blocked us from offering some reasonable amendments.

One of those amendments would have allowed us to protect our children and schools from having nuclear waste transported by their doors. Another amendment would have said that this bill cannot waive all of our environmental laws. And then something else, talking about hypocrisy with the Republican leadership on this, the Republican leadership came in defending private property rights, and yet they would not even allow us an amendment to defend private property rights on H.R. 1270. I urge a "no" vote today on the rule and on final passage.

#### VIRGINIA GOVERNOR ALLEN AND WIFE SPEAK OUT ON VISIT OF CHINESE PRESIDENT

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. WOLF. Mr. Speaker, I want to take a moment to salute Virginia's Governor, my Governor, George Allen and his wife Susan Allen for their eloquence, their grace and their conviction in speaking out on behalf of universal human principles and democracy as the Chinese President visited at Colonial Williamsburg.

Mrs. Allen in remarks at yesterday's luncheon for the Chinese President noted, "Thomas Jefferson was the author of the Virginia Statute of Religious Freedom and our Declaration of Independence. Virginia is proud that one of its sons wrote words that are universal in their meaning for all people, declaring that all men are endowed by their Creator with certain unalienable rights of life, liberty and the pursuit of happiness."

In an earlier letter to President Zemin, Governor Allen wrote, "Williamsburg offers a unique insight into America's courageous and spirited beginning here in our blessed Commonwealth of Virginia. May this treasured setting provide you with a greater understanding of and appreciation for the universal human principles upon which America is built: freedom, liberty, and representative democracy."

I salute Governor Allen and Mrs. Allen for their willingness to speak in a clear voice on the core principles that has made America good. I just hope that the Chinese President heard them.

Mr. Speaker, I include the letter from Governor Allen to President Jiang for the RECORD.

The text of the letter is as follows:

COMMONWEALTH OF VIRGINIA,  
OFFICE OF THE GOVERNOR,  
Richmond, VA, October 28, 1997.  
His Excellency JIANG ZEMIN,  
President of the People's Republic of China,  
Embassy of the People's Republic of China,  
Washington, DC.

DEAR MR. PRESIDENT: On behalf of the people of Virginia: Greetings. I hope that you,

your wife and other members of your delegation will find your visit to the United States and with the American people to be both enjoyable and enlightening.

Virginia is a land that has greeted visitors from across the seas dating back to 1607. The Commonwealth of Virginia is young compared to China, yet our history has left its indelible mark on the souls of men throughout the world.

It is appropriate, therefore, that your historic visit to the United States includes Virginia, the birthplace of American freedom—where the seeds of individual liberty, self-government and free-enterprise were planted, took root and have yielded an abundant harvest—one of the most uplifting and successful influences in the history of mankind.

Thomas Jefferson, the second Governor of Virginia, was the author of the Virginia Statute for Religious Freedom and our Declaration of Independence. Virginia is proud that one of its sons wrote words that are universal in their meaning for all people declaring that all men are "endowed by their Creator with certain unalienable rights . . . of life, liberty and the pursuit of happiness. . . ." and that governments derive "their just powers from the consent of the governed."

Although your visit to Colonial Williamsburg and Virginia is brief, I hope you have the opportunity to experience the beauty and hospitality of this historic location.

Williamsburg offers a unique insight into America's courageous and spirited beginning here in our most blessed Commonwealth of Virginia. May this treasured setting provide you with a greater understanding of, and appreciation for, the universal human principles upon which America is built—freedom . . . liberty . . . and representative democracy.

We wish you every success for a productive visit in Virginia and in the United States. We hope it will lead to mutually beneficial exchanges between the people of our two nations, as well as result in a stronger economic relationship, and in a vigorous marketplace of competing ideas and open discourse.

Most sincerely yours,

GEORGE ALLEN.

#### SHOULD NONCITIZENS BE ALLOWED TO VOTE?

(Mr. STEARNS asked and was given permission to address the House for 1 minute.)

Mr. STEARNS. Mr. Speaker, the real question in the debate surrounding the contested election in California's 46th District is do we want noncitizens voting in elections? It is not about Bob Dornan and LORETTA SANCHEZ. It is about whether or not we want to see our election process compromised. Someone would have us believe that this current investigation is unique. Would it surprise my colleagues to know that since the Civil War the House of Representatives has been involved in over 100 such investigations?

Another thing critics of this investigation will not tell us is that the supporters of Ms. SANCHEZ acknowledge that 303 noncitizens, illegally registered to vote by Hermandad, voted in the 46th Congressional District. There is strong evidence to support the fact that far more than 303 votes were fraudulently cast in this race.

Do we really want to devalue the votes cast by legally registered American citizens? I think not. Our opponents on the other side of the aisle should welcome this investigation if they truly believe that their candidate won fair and square. The truth must be allowed to come out.

#### GETTING BUREAUCRACY OUT OF THE CLASSROOM

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, recently a teacher in Camden County, GA told me about going to a conference near the State capitol designed to tell teachers not to hug kids anymore and not to be in the room alone with them anymore, never to touch them. She says, "You know, it's too bad because in the school district that I'm in, a lot of these children are from broken homes and they need hugging more than they need A's."

Another teacher told me she cannot get parents to participate in the PTA programs anymore because when parents come up with good ideas, they just cannot get through the red tape. Then another teacher in Darien, Georgia told me that she has to spend 2 to 3 hours each week on paperwork just to keep up with the bureaucracy.

Mr. Speaker, I believe we need to have more local control of school systems. We are going to vote today on a charter school bill which will give local control and get the bureaucracy out of the classroom so that the teacher can develop the relationship that is needed to teach Johnny how to read without a bunch of busybody bureaucrats from the State capitol or Washington, DC, telling them what they have to do and what they do not have to do.

#### HOUSE TO VOTE ON EDUCATION INITIATIVES

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, today and most of this week we are going to be voting on education initiatives. I want to call my colleagues' attention to what has been happening back in my home State of Minnesota. Our Governor, Arne Carlson, decided several years ago that ultimately what we need to do was empower parents and decentralize what is happening in education. The net result is in this year's legislature back in Minnesota, they passed some of the most wide-ranging tax reforms I think in any State in the Union. I am proud of that. Most parents in the State of Minnesota are proud of it as well.

What they included was tax credits and tax deductibility, making it easier for parents to send their kids to the school that they choose, not that is

chosen for them. They made it easier for them to buy equipment for their students, including computers, and so forth.

This is a giant step forward. It reinforces, I think, what we are trying to do here in Washington, what parents want and what ultimately most people know is best for children, and that is to decentralize the school system, empower parents and create school systems that serve students rather than serving bureaucracies.

#### INTERNAL REVENUE SERVICE IN NEED OF REFORM

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, Republicans in the House are committed to reforming the IRS. For weeks the White House was signaling that they were going to battle us on that issue, and they issued repeated pronouncements defending the IRS. When the White House decided this was an unsustainable political position, last week the White House decided to reverse course: The administration indicated it would join Republicans and work with us to reform the IRS. Today we see their rhetoric does not match reality. This weekend Treasury Secretary Robert Rubin said the administration disagrees with Republican calls to scrap 17,000 pages of IRS rules and regulations.

In proclaiming support for this 17,000 page monstrosity, the administration claimed it gives taxpayers "predictability." Ironically, they are right. The IRS Code is predictably too complex; it predictably favors its political friends; it predictably punishes its political enemies.

We will never have real tax reform in this country until we do away with those 17,000 pages of rules and regulations and give the taxpayers a fairer, flatter Tax Code. That is the "predictability" Americans are seeking, and it is the predictability they deserve.

#### PERSONAL EXPLANATION

Mrs. MCCARTHY of New York. Mr. Speaker, on Friday, October 24, I had the pleasure of attending the wedding of my son Kevin and daughter-in-law Leslie. Consequently, I was unable to vote on rollcall votes 526 through 531.

Had I been present, I would have voted "yes" on rollcall vote 526; "yes" on rollcall vote 527; "yes" on rollcall No. 528; "no" on rollcall 529; "no" on rollcall No. 530; "yes" on rollcall vote 531.

#### REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2527

Ms. DELAURO. Mr. Speaker, I ask unanimous consent to have my name removed as cosponsor of H.R. 2527.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

#### PROVIDING FOR CONSIDERATION OF H.R. 1270, NUCLEAR WASTE POLICY ACT OF 1997

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 283 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 283

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1270) to amend the Nuclear Waste Policy Act of 1982. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 306 of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed eighty minutes, with sixty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce and twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Commerce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 5(a) of rule XXI or section 306 of the Congressional Budget Act of 1974 are waived. Notwithstanding clause 5(c) of rule XXIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Points of order against the last amendment printed in the report of the Committee on Rules for failure to comply with clause 5(a) of rule XXI or section 306 of the Congressional Budget Act of 1974 are waived. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. After a motion that the Committee rise has been rejected on a day, the Chairman may entertain another such motion on that day

only if offered by the majority leader or his designee. After a motion to strike out the enacting words of the bill (as described in clause 7 of rule XXIII) has been rejected, the Chairman may not entertain another such motion during further consideration of the bill. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommend with or without instructions.

SEC. 2. After passage of H.R. 1270, it shall be in order to take from the Speaker's table the bill, S. 104, and to consider the Senate bill in the House. Points of order against consideration of the Senate bill for failure to comply with section 306 of the Congressional Budget Act of 1974 are waived. It shall be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 1270 as passed by the House. If the motion is adopted and the Senate bill, as amended, is passed, then it shall be in order to move that the House insist on its amendment to S. 104 and request a conference with the Senate thereon.

□ 1200

## MOTION TO ADJOURN

Mr. ENSIGN. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion to adjourn offered by the gentleman from Nevada [Mr. ENSIGN].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ENSIGN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 29, nays 374, not voting 29, as follows:

[Roll No. 535]

## YEAS—29

Ackerman	Foglietta	Lewis (GA)
Andrews	Ford	Markey
DeFazio	Gephardt	McDermott
DeGette	Gibbons	McNulty
Delahunt	Gordon	Mink
Dellums	Hilleary	Obey
Ensign	Jackson (IL)	Olver
Eshoo	Jefferson	Stark
Fattah	LaFalce	Torres
Filner	Lewis (CA)	

## NAYS—374

Abercrombie	Barrett (WI)	Blagojevich
Aderholt	Bartlett	Bliley
Allen	Barton	Blumenauer
Archer	Bass	Blunt
Armey	Bateman	Boehlert
Bachus	Becerra	Boehner
Baesler	Bentsen	Bonilla
Baker	Bereuter	Bonior
Baldacci	Berman	Borski
Ballenger	Berry	Boswell
Barcia	Bilbray	Boucher
Barr	Bilirakis	Boyd
Barrett (NE)	Bishop	Brady

Brown (FL)	Hastings (FL)	Morella
Brown (OH)	Hastings (WA)	Murtha
Bryant	Hayworth	Nadler
Bunning	Hefley	Neal
Burr	Hefner	Nethercutt
Burton	Herger	Neumann
Buyer	Hill	Ney
Callahan	Hilliard	Northup
Calvert	Hinchee	Norwood
Camp	Hinojosa	Nussle
Campbell	Hobson	Oberstar
Canady	Hoekstra	Ortiz
Cannon	Holden	Owens
Cardin	Hooley	Oxley
Carson	Horn	Packard
Castle	Hostettler	Pallone
Chabot	Hoyer	Pappas
Chambliss	Hulshof	Parker
Chenoweth	Hunter	Pastor
Christensen	Hutchinson	Paul
Clay	Hyde	Paxon
Clayton	Inglis	Pease
Clement	Istook	Peterson (MN)
Clyburn	Jackson-Lee	Peterson (PA)
Coble	(TX)	Petri
Coburn	Jenkins	Pickering
Collins	John	Pickett
Combest	Johnson (CT)	Pitts
Condit	Johnson (WI)	Pombo
Cook	Johnson, E.B.	Pomeroy
Cooksey	Jones	Porter
Costello	Kanjorski	Portman
Cox	Kaptur	Poshard
Coyne	Kasich	Price (NC)
Cramer	Kennedy (MA)	Pryce (OH)
Crane	Kennedy (RI)	Quinn
Crapo	Kennelly	Radanovich
Cummings	Kildee	Rahall
Cunningham	Kilpatrick	Ramstad
Danner	Kim	Rangel
Davis (FL)	Kind (WI)	Redmond
Davis (IL)	King (NY)	Regula
Davis (VA)	Kingston	Reyes
Deal	Kleczka	Riggs
DeLauro	Klink	Riley
DeLay	Klug	Rivers
Deutsch	Knollenberg	Roemer
Diaz-Balart	Kolbe	Rogers
Dicks	Kucinich	Rohrabacher
Dingell	LaHood	Ros-Lehtinen
Dixon	Lampson	Rothman
Doggett	Lantos	Roukema
Dooley	Largent	Roybal-Allard
Doolittle	Latham	Royce
Doyle	LaTourette	Rush
Dreier	Lazio	Ryun
Duncan	Leach	Sabo
Dunn	Levin	Salmon
Edwards	Lewis (KY)	Sanchez
Ehlers	Linder	Sanders
Ehrlich	Lipinski	Sandlin
Emerson	Livingston	Sanford
Engel	LoBiondo	Sawyer
Etheridge	Lofgren	Saxton
Evans	Lowey	Schaefer, Dan
Everett	Lucas	Schaffer, Bob
Ewing	Luther	Schumer
Farr	Maloney (CT)	Scott
Fawell	Maloney (NY)	Sensenbrenner
Fazio	Manton	Serrano
Foley	Manzullo	Sessions
Forbes	Mascara	Shadegg
Fowler	Matsui	Shaw
Fox	McCarthy (MO)	Shays
Frank (MA)	McCarthy (NY)	Sherman
Franks (NJ)	McCollum	Shimkus
Frelinghuysen	McCrery	Shuster
Frost	McDade	Sisisky
Furse	McGovern	Skaggs
Gallegly	McHale	Skeen
Ganske	McHugh	Skelton
Gejdenson	McInnis	Slaughter
Gilchrist	McIntyre	Smith (MI)
Gillmor	McKeon	Smith (NJ)
Gilman	McKinney	Smith (OR)
Goode	Meehan	Smith (TX)
Goodlatte	Meek	Smith, Adam
Goodling	Menendez	Smith, Linda
Goss	Metcalf	Snowbarger
Graham	Mica	Snyder
Green	Millender-	Solomon
Greenwood	McDonald	Souder
Gutierrez	Miller (CA)	Spence
Gutknecht	Miller (FL)	Spratt
Hall (OH)	Minge	Stabenow
Hall (TX)	Moakley	Stearns
Hamilton	Mollohan	Stenholm
Harman	Moran (KS)	Strickland
Hastert	Moran (VA)	Stump

Stupak	Towns	Weldon (PA)
Sununu	Trafigant	Weller
Tanner	Turner	Wexler
Tauscher	Upton	Weygand
Tauzin	Velazquez	White
Taylor (MS)	Vento	Whitfield
Taylor (NC)	Visclosky	Wicker
Thomas	Walsh	Wise
Thompson	Wamp	Wolf
Thornberry	Waters	Woolsey
Thune	Watkins	Wynn
Thurman	Watt (NC)	Young (FL)
Tiahrt	Watts (OK)	
Tierney	Waxman	

## NOT VOTING—29

Bono	Hansen	Rodriguez
Brown (CA)	Houghton	Rogan
Conyers	Johnson, Sam	Scarborough
Cubin	Kelly	Schiff
Dickey	Martinez	Stokes
English	McIntosh	Talent
Flake	Myrick	Weldon (FL)
Gekas	Pascarell	Yates
Gonzalez	Payne	Young (AK)
Granger	Pelosi	

□ 1221

Ms. SLAUGHTER, Mrs. NORTHUP, and Messrs. KENNEDY of Rhode Island, SAWYER, PACKARD, and HERGER changed their vote from "yea" to "nay."

Mr. MARKEY changed his vote from "nay" to "yea."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

## PROVIDING FOR CONSIDERATION OF H.R. 1270, NUCLEAR WASTE POLICY ACT OF 1997

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Washington [Mr. HASTINGS] is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for purposes of debate only.

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, House Resolution 283 is a structured rule providing for the consideration of H.R. 1270, the Nuclear Waste Policy Act of 1997. The rule provides for 1 hour of general debate equally divided between the chairman and ranking member of the Committee on Commerce, as well as 20 minutes of debate equally divided between the chairman and ranking member of the Committee on Resources.

The rule makes in order a committee amendment in the nature of a substitute as the base text, and waives Congressional Budget Act requirements that the Committee on the Budget report provisions within its jurisdiction. The rule also waives House rules prohibiting appropriations in an authorization measure.

Mr. Speaker, this rule makes in order 10 amendments, debatable in the order listed and for the amount of time specified in the Committee on Rules report.



The rule further specifies that time for debate on each amendment shall be equally divided and controlled by a proponent and an opponent, and that amendments shall not be subject to further amendment, and shall not be subject for a demand for a division of the question in the House or in the Committee of the Whole. Furthermore, the rule waives all points of order against the amendment in the nature of a substitute offered by the gentleman from California [Ms. MILLENDER-MCDONALD].

Under the rule, the chairman of the Committee of the Whole may postpone votes and reduce the voting time on a postponed vote to 5 minutes, provided it follows a regular 15-minute vote.

In addition, the rule provides that after a motion that the Committee rise has been rejected on a day, the Chairman may entertain another such motion on that day only if offered by the majority leader or his designee. The rule also provides that after a motion to strike the enacting words of the bill has been rejected, the Chairman may not entertain another such motion during further consideration of the bill. Finally, the rule provides for one motion to recommit with or without instructions.

After passage of H.R. 1270, the rule provides for the consideration of a motion to call up S. 104, the Senate version of the bill, strike all after the enacting clause, and insert the text of the House-passed version of H.R. 1270. After adoption of the motion, the rule makes in order a motion for the House to insist on its amendments to S. 104 and request a conference.

Mr. Speaker, as a Member who represents the area that has the largest repository of nuclear waste in the United States, let me take this opportunity to remind my colleagues that Congress not only has a statutory responsibility but a moral obligation to face squarely the issue of long-term storage of nuclear waste.

For more than half a century now our Nation has faced the challenges and reaped the benefits of nuclear science. Our ever-growing understanding of the atom has helped to win both World War II and the cold war that followed. At the same time, nuclear science has always made possible the generation of safe, clean electric power for millions of Americans in ways that produce far less pollution than many other sources of energy.

Having said that, Mr. Speaker, there is a very large and costly asterisk attached to the many benefits of nuclear energy. That is the need to deal with the large quantities of nuclear waste that are a byproduct of power generation in more than 100 reactors across this country.

True, we could dramatically reduce the waste stream if we treated the spent fuel produced in our Nation's powerplants as a renewable resource. Unfortunately, however, the tremendous potential for reprocessing has

never been realized in the United States because of political opposition based more, frankly, on political ideology than on sound science.

As a result, Mr. Speaker, nuclear waste today sits untreated in temporary storage sites across the country that are rapidly reaching their full capacity. The amount of such waste is large and it is still growing.

The nuclear wastes resulting from defense production are even less stable. For example, in my own district at Hanford, 54 million gallons of liquid nuclear and hazardous wastes are sitting in 177 underground storage tanks just a few miles from the Columbia River. In addition, 2,100 metric tons of spent nuclear fuel rests little more than 100 yards from this same river. This pattern is repeated again and again at Savannah River, SC; Rocky Flats, CO; at Oak Ridge in Tennessee; at Idaho Engineering Laboratory in Idaho; and elsewhere.

Clearly, Mr. Speaker, this Congress has an obligation to act. Just as clearly, there are those in this body who oppose this legislation. Let me emphasize, I do not want to question their motives in opposing this bill. No one on either side of this issue who has looked carefully at the issues could fail to see the seriousness of the problems we face.

While I do not want to question their motives, I do have some practical questions for the critics of H.R. 1270. First, what do they propose as an alternative? We have done too little for too long, and the time, frankly, is running out.

Would our opponents send us back to the drawing board and delay this process yet once again? Would they leave this dangerous material stored in hundreds of our communities indefinitely? Do they truly favor leaving this material in deteriorating containers and storage pools? These are questions I think, Mr. Speaker, that need to be addressed in the debate that will follow after the adoption of the rule.

Mr. Speaker, there are times when this body must make agonizingly difficult decisions, and there are times when the risks of inaction are simply too great. I believe this is one of those times. This is a sound piece of legislation. The committees of jurisdiction have worked long and hard to balance the concerns of Members from different parts of this country. H.R. 1270 may not be perfect, but the rule we have reported will provide Members an opportunity to address their most serious objections to this bill.

The committee has reported a rule which will permit full and extensive debate on all sides of this complex and controversial issue.

□ 1230

Accordingly, I urge my colleagues to pass this rule so that we can proceed with the long overdue debate on H.R. 1270, the Nuclear Waste Policy Act of 1997.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Washington [Mr. HASTINGS] for yielding me this time. This resolution is a structured rule that will allow for consideration of H.R. 1270, the Nuclear Waste Policy Act of 1997. Mr. Speaker, the bill establishes a process to store spent nuclear fuel and high-level radioactive waste.

As my colleague from Washington has described, this rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. It also provides 20 minutes of general debate, equally divided and controlled by the chairman and the ranking minority member of the Committee on Resources.

Mr. Speaker, only 10 specific amendments may be offered. No other amendments will be in order.

One of the major environmental problems facing our Nation is disposing of the thousands of tons of spent nuclear fuel and other dangerous radioactive wastes. The bill establishes an interim storage facility at Yucca Mountain for these nuclear wastes. The bill designates the same site for study as a permanent storage facility.

Unfortunately, the geological testing of Yucca Mountain has not been completed. Moreover, the bill does not consider any other location for a permanent facility. Acting hastily, before we have enough valid scientific information, could burden future generations with even greater problems than we face now. The bill also unnecessarily weakens existing environmental standards for acceptable radiation releases. For these reasons, the President would veto the bill.

Mr. Speaker, I am pleased that the Committee on Rules made in order a number of Democratic amendments among the 10 that may be offered. However, more than half of the requested amendments were denied by the Committee on Rules, including many amendments which would have improved the bill.

One of the amendments the Committee on Rules denied would make contractors more responsible for accidents when transporting radioactive wastes. There is no reason why American taxpayers should pay if the contractor is at fault, and there is no reason why this amendment should not be offered.

Mr. Speaker, bills reported from the Committee on Commerce have been traditionally brought to the floor under open rules, and I regret that we seem to be ending that tradition.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Colorado, Mr. DAN SCHAEFER, subcommittee chairman on the Committee on Commerce dealing with this legislation.

(Mr. DAN SCHAEFER of Colorado asked and was given permission to revise and extend his remarks.)

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, today the House is considering the rule for H.R. 1270, and I think this is a real fair rule. It is one that provides for 10 amendments, 5 sponsored by Republican Members and 5 sponsored by Democrat Members. How much more fair can we get than that?

H.R. 1270 was developed by the Committee on Commerce in a bipartisan manner over the past 2½ years and enjoyed broad bipartisan support in the committee. Last month, the bill was reported out by a margin of 43 to 3. It is my hope that H.R. 1270 will enjoy the broad bipartisan support in the full House.

This bill has been a long time coming. Mr. Speaker, 15 years ago, 15 years ago, the Nuclear Waste Policy Act of 1982 established a nuclear waste program based on a permanent repository that was expected to begin operation in 1998. However, this repository is well behind schedule and will not begin operation now until the year 2010.

Last year a Federal court ruled that DOE had a legal duty to begin accepting the nuclear waste in January 1998. However, DOE cannot meet its legal duty to begin acceptance of this waste under current law, since this repository will not be operational now until the year 2010 and current law prevents DOE from developing interim storage facilities after a repository is licensed.

The Federal Government should not shirk its legal responsibility, and the word of the Federal Government should mean something to the American people. Congress must act to permit DOE to meet its legal duty under the Nuclear Waste Policy Act through acceptance at an interim storage facility.

Although the January 1998 deadline is not achievable, it is possible to begin acceptance at an interim storage facility by the year 2002. That is a near-term date that permits enough time for the NRC to license the interim storage facility.

Failure on the part of DOE to fulfill its legal duties will have a heavy cost. State public utility commissions and utilities are suing DOE for damages to pay for their onsite storage costs. If the courts order DOE to pay these damages, funding for the nuclear waste program will dry up and progress toward permanent disposal of nuclear waste will grind to a halt.

Current law also does not protect the consumers. Since 1983, consumers have paid \$13 billion in fees to fund the nuclear waste program. Unfortunately, only a small part has really been paid for that. Recently as much as 85 cents of every dollar contributed by consumers has been diverted to other Federal programs, and this is a sham on the taxpayers in this country.

This diversion will continue unless Congress amends the fee, tackles this issue, and goes at it. The issue before

the House is a simple one. Should Congress really act to fulfill the legal obligations of the Federal Government? Should they? And should Congress act to maintain progress toward development of a permanent repository?

Mr. Speaker, I think that we have to act and we have to act today, and I urge Members to support the rule for H.R. 1270.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. LEWIS], a fine gentleman and the deputy minority whip.

Mr. LEWIS of Georgia. Mr. Speaker, few bills we consider pose a greater threat to the health and well-being of our Nation than the one before us today. Nuclear waste is a deadly poison, a poison we must not treat lightly. We must develop an intelligent, thoughtful, and prudent nuclear waste policy.

Mr. Speaker, this bill is not intelligent. It is not thoughtful. It is not prudent.

This bill would have us move nuclear waste not just once, but twice. This bill will require nuclear waste to travel thousands of miles on our highways and railroads, through our neighborhoods, past our homes, down our streets. And in a few years, we may well do it all over again. Why? Because we do not know if Yucca Mountain is safe.

Mr. Speaker, nuclear waste does not just go away. The poison will be around for thousands of years. Our children and unborn generations will live with the nuclear waste we have created with the threat of leukemia, cancer, and a slow, agonizing death.

So when we store nuclear waste, let us take our time and do it right. Do it right. We should not rush to send these poisons through our neighborhoods, down our roads, down our railroads, into our streets and into our neighborhoods.

Mr. Speaker, let us slow down. Think of our children. Think of unborn generations, and defeat this ill-conceived and dangerous bill. I urge my colleagues to defeat the rule.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Speaker, first let me say that obviously being from Nevada, I am opposed to this rule, but let me give some real reasons to be opposed to this rule.

Mr. Speaker, we came in actually as a Republican majority saying we want to open up the process. We want to allow the democratic process to go forward in a fair manner. This bill shuts down that process. It is not an open rule. It should be an open rule, as the gentleman from Ohio [Mr. HALL] said earlier.

But it also did not allow some very key amendments to be debated on this floor. This bill waives some of the most important environmental laws that we have on the books today. That is why every major environmental group in this country is opposed to this bill.

Mr. Speaker, one of the amendments we had on here had to do with private property rights. Republicans came in as part of the Contract With America saying that we want to defend the fifth amendment and when the Government devalues a citizen's property due to an action that it takes, that it should compensate them for that. The Republican leadership would not allow that amendment to this bill, H.R. 1270, to even be debated.

Also, Mr. Speaker, they would not allow an amendment that would protect our children in our schools from having nuclear waste transported near their schools.

Now, the gentleman who is controlling time on this side talked about alternatives. Alternatives. The NRC said that dry cask storage on site is safe for up to 100 years, keeping it right where it is. The most dangerous part of nuclear waste storage is actually transport. So why do we want to do something that we do not need to do?

They are saying that reactors are running out of space. No reactor in the United States has ever shut down because they were running out of storage space. There is plenty of room. Yes, they might have to build a concrete pad or two, put dry casks there, take these nuclear wastes out of the swimming pools, but there is plenty of room.

Mr. Speaker, I urge my colleagues to vote against this rule. This rule is ill-founded.

Mr. HALL of Ohio. Mr. Speaker, I yield 3½ minutes to the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Speaker, the State of Ohio killed a plan to establish a radioactive waste dump because people in Ohio recognized the dangers of moving the waste to our State. I rise in opposition to this rule and to this bill which would permit transport of millions of tons of high-level radioactive waste through 43 States and dump it on the good people of Nevada.

□ 1245

It is nothing short of a total outrage that the American people will pay the price with their health and their tax dollars to dispose of waste which comes from commercial nuclear reactors. It is a bitter irony to those of us who oppose nuclear waste to be proven right, but now being forced to accept 15,000 shipments of waste through our communities.

This bill is fundamentally flawed. The amendments I tried to offer, but were not ruled in order would have at the very least made the shipments safer. In order to protect our densely populated urban areas, I offered an amendment that would prohibit private companies from transporting high level radioactive waste through any community larger than 50,000 unless the waste originated from that community. That amendment was rejected. The public has a right to know what is being trucked through their communities.

I offered an amendment that would require a notice to be published in a newspaper of general circulation in each community through which the waste would be transported and that the notice include a complete inventory of the waste to be transported. We have to be certain that people know what is going on with nuclear waste. Yet that amendment was not accepted, so now the people will not know.

We have to be certain that the containers which would carry the waste are safe and durable. So I offered an amendment to mandate that all of these containers used in the transport of the waste be physically crash tested prior to any shipments. None of these amendments were deemed suitable for a vote by the House of Representatives.

We must be mindful of the health effects which this waste can have on surrounding communities. So I offered an amendment which would have required an epidemiological study of the communities surrounding the waste dump to be conducted every 5 years after the first shipment of radioactive waste and continue every 5 years as long as the dump exists. Keep in mind, the waste will stay radioactive for thousands of years.

I also offered an amendment that would have prevented a temporary storage facility from being built until Yucca Mountain is deemed suitable for storage of high level radioactive waste. It seems logical, but none of these amendments were deemed suitable.

The important question here today is, Why do we not have an open rule so that the House of Representatives will be able to debate these and other critical issues on the House floor? When the American people find out what is really in this bill, there will be a deafening outcry. It will not be long before we will be hearing across the country a phrase similar to "hell no, we won't glow," as 15,000 shipments of nuclear waste comes rolling through the backyards of the people of the United States.

Members, do not let anyone tell us we have no choice but to pass this. There is an alternative. Do not move the waste. The sites where the waste exists will continue to be contaminated for thousands of years. Vote no on the rule; vote no on this bill.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada [Mr. GIBBONS].

(Mr. GIBBONS asked and was given permission to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise today in strong opposition to this rule. Today this institution has literally declared nuclear war on Nevada. This institution has failed not just the people of Nevada, but all of America. What could have been an open and honest debate on H.R. 1270 is now limited to a very narrow attempt to approve one of the worst bills that

has ever been debated by this body. Yes, the Committee on Commerce voted this out by a wide margin. But let me say that the Committee on Resources said no to this bill, the committee of joint jurisdiction.

In my brief time in Congress, I have done countless floor speeches, special orders, sent dear colleague letters out innumerable times, participated in national radio shows, and been interviewed by the national press on this issue. This effort has yielded great strides toward exposing the gross negligent effort of the environmental lobby. It has avoided environmental protection, transportation, safety, and health issues, as all my colleagues have stated. This House has denied those of us in opposition to this bill the opportunity to debate these issues in an open and honest forum.

This has failed the American people. I testified before the Committee on Rules asking them to make in order five simple amendments. This was a small request when considering the potential impact that it could have on the State of Nevada and especially on the district that I represent. I am not here to tie up the floor, but to correct the ill-thought-out misgivings of this legislation.

This rule will only permit me to offer two minor amendments tomorrow, two minor amendments on a bill that could devastate the environment, pollute our water supplies, contaminate entire communities across America, and maybe, yes, even maybe your community.

Vote no on the rule and allow our voices to be heard and permit this institution to do its work.

Mr. HALL of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise today in opposition to the rule. I am a member of the Committee on Commerce, the committee with jurisdiction, and went before the Committee on Rules with an amendment that I think is a very good compromise and certainly something that should be discussed with regard to this very important issue. My amendment was not made in order so I will oppose the rule.

I agree with the gentleman from Nevada [Mr. ENSIGN] that on such an important issue as this, when we are essentially debating nuclear policy in this country, we should have allowed an open rule or, at the very least, we should have allowed pertinent amendments, certainly from members of the committee, to be able to present those amendments.

We all know that the President is probably going to veto this bill in its current form and even though I voted for the bill in committee, we know that we will probably have to come back next year and debate this again. And if we are going to debate the issue of nuclear waste, then certainly we need to

have all the ideas on the table, particularly when there are very serious proposals of compromises that may ultimately have to be hammered out in this body. I just do not understand why my amendment and some of the other very pertinent amendments were not made in order by the rule. Therefore, I think it is a bad rule and ought to be defeated.

My amendment would have permitted utilities to spend fees coming into the nuclear waste trust fund for on-site storage prior to the construction of an interim or final repository. The fees, as the gentleman from Colorado said, have been collected. They have not been doing very much and I think that the fees that the public has been paying would be used, could be used to keep the nuclear waste at the facilities until we can decide where it ought to be permanently buried.

This approach would allow plants to address their waste problem now instead of in 2002, the date when H.R. 1270 foresees completion of the interim repository near Yucca Mountain, because by next year, Mr. Speaker, 26 nuclear reactors will have run out of storage space. This is a problem we must address now, not 5 years from now.

I offered this amendment in the Committee on Commerce, but withdrew it because it had not yet been reviewed by CBO and scored. I also did it to give my colleagues a chance on the committee to consider the measure. It has since been scored and will result in no additional costs.

My amendment addresses many of the problems not addressed by H.R. 1270. First, we all agree that the average ratepayer has been on the short end of the stick during this process as the trust fund is used to balance the budget, not for this purpose. My amendment would have put our constituents' money to its designated purpose, storage of spent nuclear fuel.

Second, it would allow powerplants which are running out of pool space to create interim storage on site without passing all of the massive costs to the taxpayers on top of fees they pay to the trust fund.

Third, it allows the powerplants an economically viable way to stay open when they run out of storage space and, again, the nuclear waste would not have to be trucked through our communities because it would be able to be stored at the site itself.

Fourth, it offers a method to provide interim storage without the inherent risks in transportation and security and without creating powerful momentum for starting the permanent repository at Yucca Mountain before the science is completed, before the study is completed.

So once again, Mr. Speaker, I must unfortunately oppose the rule for H.R. 1270, because my amendment was not made in order and other amendments were not made in order. If we cannot have a very important discussion of this very important issue, then I think

the rule is defective and ought to be defeated.

Mr. HASTINGS of Washington. Mr. Speaker, how much time remains on both sides?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Washington [Mr. HASTINGS] has 15½ minutes remaining, and the gentleman from Ohio [Mr. HALL] has 18 minutes remaining.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. GUTKNECHT].

Mr. GUTKNECHT. Mr. Speaker, I rise in strong support of this rule and this bill.

Some will argue that we need more time to study, we need more time to debate. I would suggest this issue has been debated and has been studied for years and years. In fact, ratepayers around the United States have paid \$13 billion, and let us remind every Member who may be listening to this debate that a promise is a promise.

Since the dawn of the nuclear age and since the first nuclear powerplant, the Federal Government has promised that we would find a permanent storage site. This bill would recognize that the Department of Energy has an obligation to create a storage area in an area about the size of the State of Connecticut and this recognizes that it is time that we live up to that end of our bargain. The Federal court of appeals has ruled that we have that obligation. It is a binding obligation under the 1982 Nuclear Waste Policy Act.

Mr. Speaker, I think the time has long since passed for Congress to take action. Where I come from a deal is a deal and a bargain is a bargain. The time has come for us as representatives of the Federal Government to live up to our end of that bargain.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes and 30 seconds to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, we are making one of the most important environmental decisions that the Congress has ever been confronted with. We are going to take all of the nuclear waste that has ever been generated at any nuclear powerplant in the United States, and we are going to find one location somewhere in the United States, and we are going to dump it all there.

Now, one would think on an issue of such grave importance that we would have a very well-thought-out scientific process that we would use. In fact, we are doing just the opposite. In 1982, we did set up a process that would find the best scientifically obtainable site in the United States. And in 1987, Congress got a little frustrated and they said, no, we are not going to have that search. We are going to pick Yucca Mountain in Nevada. We do not know if that is the right site, but we are picking it. Congress is picking it. Not geologists, not scientists, but Congress picked it.

Now it is 10 years later and Congress is unhappy with the pace of 10 years of the Reagan and Bush administrations and 5 years of the Clinton administration's DOE trying to determine if this site is the right place.

So what are we saying today? We are saying, we are not going to bury it permanently at Yucca Mountain. We are giving up on a permanent burial. We are going to build an above-ground mausoleum for all this stuff and we are going to ship it across the country to this site. We are giving up.

We are going to have a vote here today to never bury nuclear waste permanently in the United States. We are building an above-ground facility. We are sticking this nuclear queen of spades, because no one else wants it, with Nevada. They lose. Fifty States, 50 cards, they lose. And they lose because Texas does not want it. Louisiana does not want it. Washington State does not want it. Massachusetts does not want it. New York does not want it. You can be pronuclear all you want, but when we say, how would you like all the spent fuel from nuclear powerplants, it is, not in my backyard, no thanks. We are picking Nevada.

So I asked the committee for a rule, if you are going to ship all of this stuff across America in trucks. Guess what they do? They say that for the purposes of ensuring that we get it off site in all these individual States, we are going to have in this bill something that says that it is not a major Federal action. That is right, Mr. Speaker. This bill says that putting all the nuclear waste in America on railroad cars, in trucks shipping it to Nevada, storing it there for 10,000 years is not a major Federal action. As a result, you suspend NEPA, the constitution of the environment of the United States, and the National Environmental Policy Act.

□ 1300

We suspend it. So we can assume a lot of things. We can assume it is going to be safe. We can assume that we do not need extra protections. That is what we are doing here. Not scientists, not geologists, not physicians, Congress is assuming it is going to be safe, nuclear waste. Nobody wants it. "Don't get it near me." It is like kryptonite. "Don't get it near my district." We are going to assume it is safe.

So, believe it or not, in this bill they say that if there is a trucking company and they get the contract from DOE to ship all this stuff in thousands of truckloads all across the country, that the trucking company is indemnified against any lawsuit even if they engage in willful gross misconduct. That is right. If they hire truck drivers who are drunk, who are on antidepressants, who are driving after midnight 100 miles an hour through our neighborhood and they crash through our neighborhood and leave a nuclear waste dump there for generations, we cannot sue the trucking company.

Now, I asked for an amendment to be placed in order, that at least we can

make the trucking company liable. If someone brought nitroglycerin through our neighborhood and there was an explosion, we could sue them. If they brought TNT through our neighborhood and it exploded, we could sue them. But if they bring nuclear waste through the neighborhood, we here this Congress are saying the trucking company should not be liable.

My amendment has not been allowed to be put in order. And why is that? Because this generation that enjoyed nuclear power does not want to pay the price of burying this waste permanently. It is going to cost a lot of money. Instead, we engage in a thermonuclear ponzi game. We get the benefit of the electricity. We pass on to three or four generations from now the responsibility of finding a way of burying it because we are not going to do it.

Today is the official buck-passing day intergenerationally. In the same way that Congress irresponsibly for 20 years kept passing on the deficit to the next generation, we are now doing the same thing with environmental issues. Rather than bearing the burden today for the benefits that this generation received from the electricity generated from this source of power, we are all saying here today, well, we get a lot of electric utility executives that just want it off-site. Do we think they are ever going to call back again once they get it off-site? I do not think so.

This rule should have more opportunities for amendments to be made to cure the defects that are in it. I hope that the Members vote "no."

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Colorado [Ms. DEGETTE].

Ms. DEGETTE. Mr. Speaker, I thank the gentleman from Ohio [Mr. HALL] for yielding me the time.

Mr. Speaker, I oppose this rule because it fails to address the concerns my colleagues and I have with this nuclear waste bill. The Committee on Rules decided not to grant an open rule for the consideration of the bill, and it has precluded debate on the important environmental aspects of the bill. I am deeply concerned that, given the importance of this legislation and given the severe environmental impacts, that the process for full, fair and open debate has been precluded.

In the Committee on Commerce I offered an amendment which would require that the interim and permanent nuclear waste storage disposal site conform to the National Environmental Policy Act or NEPA. In the Committee on Rules my colleague from Nevada [Mr. ENSIGN] and I wanted to offer this amendment on the floor. We believe it is important that NEPA allow a thorough review of the environmental aspects when the Federal Government undertakes a major action, such as storage of high-level nuclear waste at

this site. We have the NEPA law in effect today because there is an important need for the Federal Government to honestly consider all of the ramifications and options before it takes such an important environmental step.

In this case, we are going to pool high-level nuclear waste from our Nation's power plants which will stay there for the next 10 to 10,000 years. This is an environmental impact we cannot ignore. I urge a "no" vote on the rule and on the bill.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. MCGOVERN].

Mr. MCGOVERN. Mr. Speaker, transporting hazardous waste is a dangerous business, and transporting nuclear waste is certainly the most dangerous business of all. That is why I rise in opposition to this rule and to this legislation which would seriously undermine our efforts to keep our communities safe from nuclear waste.

Over the past 10 years my own State of Massachusetts witnessed more than 2,200 transportation-related accidents that resulted in the release of hazardous materials. Fifty-two of those accidents resulted in individual injuries costing more than \$5.25 million in damages.

Fortunately, we do not ship a great deal of nuclear waste. Over the past 30 years we have shipped less than 2,500 truckloads of this incredibly dangerous material. But if this bill becomes law, my State of Massachusetts will see over 100,000 more shipments over the next 30 years. That is more than a 4,000-percent increase.

If only 1 percent of transported radioactive waste were released, the Department of Energy has estimated that it would contaminate 42 square miles, would require 460 days to deal with, and would cost over \$620 million to clean up. That would spell disaster for families throughout my district and all across this Nation.

Who exactly would be affected? Well, the State of Nevada has prepared a map using the Department of Energy's own computer code, demonstrating that one truck path would run right through a dozen communities in my own congressional district. This map shows that the towns of Mansfield, Foxborough, Wrentham, Plainville, Franklin, Hopkinton, Westborough, Grafton, Auburn, and my hometown of Worcester would all be at risk under this legislation, and I cannot let that happen.

Section 501 of this bill ignores all of our efforts to craft balanced environmental laws by exempting every environmental regulation with which every other project in this Nation must comply. If that were not bad enough, we are learning more and more about the potential hazards of the site at Yucca Mountain, NV. Yucca Mountain is in the middle of a major fault line, and evidence shows that seismic activity at that site is greater than anticipated. That makes Yucca Mountain not mere-

ly a puzzling choice for nuclear waste storage, but a frightening one indeed.

Mr. Speaker, President Clinton has promised to veto this misguided legislation, and I applaud him for his leadership. The President understands that we already have a process in place to study and determine how best to deal with these toxic materials, and amending that process in a way that endangers our Nation's families is simply unacceptable.

This legislation would subvert reasonable safety measures established by the National Environmental Policy Act and Environmental Protection Agency, safety measures designed to protect communities all across the Nation from the devastating effects of nuclear waste spills.

Certainly we all understand the need to effectively deal with nuclear waste, but we have a moral obligation to our Nation to go about it in a way that protects our children and safeguards our environment. I strongly urge my colleagues to say "no" to this rule, "no" to this legislation, and "yes" to our future.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I support the rule, and I wanted to commend the gentleman from New York [Mr. SOLOMON]. He never ducks tough issues. It is tough lining up on an issue on the gentleman from Nevada [Mr. GIBBONS], but I think he has done one of the greatest jobs in the country. I mean that.

But I have two amendments. One says, look, if we are going to spend money, and the bill is trying to buy American products, and I want to thank the gentleman from New York [Mr. SOLOMON] for helping us buy more American products. He helped me ever since I was a new Member, and I appreciate it.

The other amendment has been a little bit of a controversy. This is a controversial bill. But the chairman, the gentleman from Colorado, Mr. DAN SCHAEFER, and the ranking member, the gentleman from Texas, Mr. HALL, do not duck controversial issues, and I am hoping that there could be some workout here and agreement that would reach the agreement of all of Congress. But Congress must work its will.

But the second Traficant amendment, known as No. 3, is very significant. It is very controversial to be transporting and storing spent nuclear fuel and waste, but what is worse is if America would become the dumping ground for nuclear spent fuel around the world. So the Traficant original amendment was designed to say, look, this deals with American spent nuclear fuel and the storage of only American nuclear spent fuel.

But then I did come to an understanding that there are certain international agreements and memorandums of understanding whereby we do

accept foreign spent fuel, and we want to because we do not want it reprocessed and used against us by the wrong hands. And I do not disagree with that, for sure.

So I will be asking unanimous consent when I offer my amendment, that will retrofit it with language that says whenever there is an international agreement that allows for our taking, or a military agreement which allows for our taking in foreign spent fuel, that it would be so allowed, but that the commercialization of dumping nuclear spent waste fuel would be prohibited.

So that is what it is. I am going to support this rule. I normally support the rule. I think the Committee on Rules has been very, very fair, and I am hoping that some of these other agreements that are of concern to the gentleman from Nevada [Mr. GIBBONS] and the gentleman from Nevada [Mr. ENSIGN] can be worked out. I have the highest regard for both of them.

Mr. Speaker, I thank the gentleman from Ohio [Mr. HALL], one the deans now for such a young man in the Congress, for yielding me the time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for yielding.

I did want to respond, of course, to some of the assertions made by my colleague from Minnesota that the Federal court has obligated us to accept the nuclear energy industry's waste. That is just not so.

H.R. 1270 will state that the Federal court is legally bound to begin accepting waste by January 31, 1998. That is not what the court said. The court ruled, in *Indiana Michigan Power versus DOE*, that the Department of Energy needs to determine whether or not the delay in beginning the disposal of spent fuel is unavoidable within the meaning of Article IX of their contract.

Article IX provides, in brief, that "neither the Government nor the contractor or contract holder shall be liable for damages caused by failure to perform its obligations if such failure arises out of causes beyond and without the fault or negligence of the party failing to perform. In the event of an unavoidable delay, the parties are to readjust schedules as appropriate to accommodate the delay."

Let me read that again: "In the event of an unavoidable delay, the parties are to readjust schedules as appropriate to accommodate the delay."

The Office of Civilian Radioactive Waste Management contends that the delay was unavoidable and the Department of Energy would not be liable and not be required to accept this nuclear waste.

My colleagues, I urge a "no" vote on this rule because the House fails to understand that the law does not require the Federal Government to begin accepting nuclear waste. That is what

the court said in *Indiana Michigan Power versus DOE*.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the other distinguished gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Speaker, I thank the gentleman from Washington [Mr. HASTINGS] for yielding me the time.

Let me reemphasize a couple of points my colleague, the gentleman from Nevada [Mr. GIBBONS] brought up: first of all, that the court decision that everybody talks about, that we have an obligation to take this waste, that the Federal Government has, what the gentleman from Nevada [Mr. GIBBONS] said is true. Also, in the court they did say that some kind of a remedy must take place.

However, there are all kind of options on those remedies. Those options range from escrowing nuclear waste trust fund fees, taking title on site, or setting up an interim storage facility in the current law anywhere other than the State of Nevada. This bill seeks to change current law, to wipe it out, saying that permanent repository State also gets interim. In the first two bills on nuclear waste, whatever State was going to get permanent could not get interim because it would prejudice the siting, whether it is suitable or not to put nuclear waste in a deep geological storage facility.

Let me just mention a couple things on transport of the waste, as well, because this is really one of the big issues. In Germany they tried to transport high-level nuclear waste approximately 300 miles, just 300 miles, not thousands of miles like we are going to do in this country, just 300 miles. It took 30,000 police officers because there was so much civil unrest because of the transport of this waste. One hundred seventy-three people were injured during this ruckus. There are going to be similar types of civil disobedience, we can bet on it, in America if we go to transporting nuclear waste. The sad thing about it is it is not necessary. The technology exists to do on-site dry cast storage right where it is.

And reprocessing has been talked about today. It was talked about by the gentleman who manages time on this side. If we ever want to get to reprocessing, once we ship it to Nevada, we will never be able to reprocess. That will end that debate forever.

□ 1315

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume. I would ask Members to vote against the rule. I think that Republicans and Democrats on both sides feel that the rule is faulty, it is a structured rule, it is not open. There are amendments that should be in order that are not in order. I think in the bill itself, while I am not an expert on this issue, the bill really appears to be very deficient. For that reason, I would ask that the House vote against the rule.

Mr. Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me this time. I would say to the previous speaker, I hope he did not say that this rule was phony. I hope I misunderstood what he said.

Mr. Speaker, let me just say I rise in very, very strong support of this rule and of this bill. I want to say right off the bat that if I ever had to go into combat, by golly, there are two people in this body I would want by my side. One is the gentleman from Nevada [Mr. ENSIGN], and one is the gentleman from Nevada [Mr. GIBBONS]. I hope we live to fight many battles on this floor in the future side by side.

Let me also comment on the very eloquent gentleman from Massachusetts [Mr. MARKEY], who was here a few minutes ago, because he really was good. He always is. He is very eloquent and he has done his homework. But he is really criticizing this bill and that mystifies me, because this bill was reported out of the Committee on Commerce, which is a committee made up of a really diverse membership of this body, a real cross-section. We have got liberals, we have got conservatives and moderates from both political parties. The bill was reported 43-3. That means that all these liberals and these conservatives from the far right and the far left and in the middle must have voted for this bill. Let me read the Democrats, because this floors me when the gentleman from Massachusetts [Mr. MARKEY] stands up here, he says, "We are against this bill." Well, who is "we"? The gentleman from Michigan [Mr. DINGELL]? I mean, the dean of this delegation, of the Democratic side and of this whole Congress who has been here for how many years? Forty some years. He is for this bill. So is the gentleman from Texas [Mr. HALL]. Then we have the gentleman from Virginia [Mr. BOUCHER]. The gentleman from New York [Mr. TOWNS]. The gentleman from New Jersey [Mr. PALLONE], who is a noted green advocate in this Congress who takes this well day after day. He voted for this bill. The gentleman from Tennessee [Mr. GORDON], the gentleman from Florida [Mr. DEUTSCH], the gentleman from Illinois [Mr. RUSH], the gentleman from Pennsylvania [Mr. KLINK], the gentleman from Michigan [Mr. STUPAK]. The gentleman from New York [Mr. ENGEL], who was just here complaining in the well about the bill, voted for this bill. The gentleman from Maryland [Mr. WYNN], the gentleman from Texas [Mr. GREEN], the gentleman from Missouri [Ms. MCCARTHY], the gentleman from Ohio [Mr. STRICKLAND], the gentlewoman from Colorado [Ms. DEGETTE]. No, she did not. I beg your pardon. She was one of the 3 that voted against it. But I look at the cosponsors of this bill, 160 some

odd, and lo and behold, there is the gentleman from New York [Mr. BOEH-LERT]. He is the leader of the green Republicans. He is a cosponsor. Then you have got JERRY SOLOMON, me, and I am the leader of the opposite. I am the leader of property rights in this Congress. It seems to me that we have got everybody for this bill.

Some of the people were complaining this bill is not fair. Mr. Speaker, we have 6 legislative days left before we get out of here on November 7, these are full legislative days, when Members ought to get out of here and go back home and meet with their constituents. We should not even be here 10 months out of the year in the first place. We ought to be here 3 or 4 months and then back in our districts representing our people. People are complaining. They want to stay here.

Sure, we could have had an open rule on this bill and we could have spent 4 days on it, 4 out of the 6 remaining days. My colleagues know that is not possible. We made 5 Democrat amendments in order. They are significant amendments as I read them. We made 4 Republican amendments in order, two by the gentleman from Nevada [Mr. ENSIGN] and two by the gentleman from Nevada [Mr. GIBBONS]. One of those gentlemen stood up here and they said that, well, they are minor and insignificant amendments. I am going to tell these two gentlemen and anybody else in this body, do not ever come to the Committee on Rules and offer to make in order insignificant and minor amendments. I do not want to waste my time up there. If you want to have serious amendments, come up there and offer them and we will make them in order.

Let me just give my colleagues an example of one of these. The gentleman from Nevada [Mr. ENSIGN] has an amendment made in order that ensures that a risk assessment study and a cost-benefit analysis are conducted prior to any action being taken under this act. I think that is significant. Here is another by the gentleman from Nevada [Mr. GIBBONS], who I want by my side. He says:

The Governor of each State, with nuclear waste routes, shall certify that "emergency response teams" exist and can properly manage any nuclear accident before transportation plans can be implemented by the Secretary.

I think that is very significant. I have two prototype nuclear reactors in my district in the Adirondack Mountains, where we train most of the nuclear sailors. We do not train them down in Groton, CT, on the sea. We train them up in the mountains. What are we going to do with that waste up there? We are going to have to get it out of there. We are going to take it to Nevada.

Mr. Speaker, I think I have just about covered it, except to say that some other people were complaining there was not much time allocated. By the time the Members have finished

today they will have spent more than 6 hours on this bill. How many times have we dealt with the national defense budget of this country and not spent 6 hours spending \$280 billion of the taxpayers' money? This rule is fair. The bill is good. Members ought to come over here, vote for the rule and vote for the bill and let us stop this business.

Mr. HASTINGS of Washington. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ENSIGN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 259, nays 155, not voting 18, as follows:

[Roll No. 536]

YEAS—259

Aderholt	Crapo	Hill
Archer	Danner	Hilleary
Armey	Davis (FL)	Hinojosa
Bachus	Davis (VA)	Hobson
Baker	Deal	Hoekstra
Ballenger	DeLay	Horn
Barcia	Deutsch	Hostettler
Barr	Diaz-Balart	Hulshof
Barrett (NE)	Dicks	Hunter
Bartlett	Dingell	Hutchinson
Barton	Dooley	Hyde
Bass	Doolittle	Inglis
Bateman	Dreier	Istook
Bentsen	Duncan	Jenkins
Bereuter	Dunn	John
Berry	Edwards	Johnson (CT)
Bilbray	Ehlers	Johnson, E. B.
Billirakis	Ehrlich	Johnson, Sam
Bliley	Emerson	Jones
Blunt	Eshoo	Kanjorski
Boehlert	Etheridge	Kennelly
Boehner	Everett	Kildee
Bonilla	Ewing	Kim
Bonior	Farr	King (NY)
Bono	Fawell	Klink
Boswell	Fazio	Klug
Boucher	Foley	LaHood
Boyd	Forbes	Lampson
Brady	Fowler	Latham
Bunning	Franks (NJ)	LaTourette
Burr	Frelinghuysen	Lazio
Burton	Frost	Leach
Buyer	Gallegly	Levin
Callahan	Ganske	Lewis (CA)
Calvert	Gejdenson	Lewis (KY)
Camp	Gekas	Linder
Campbell	Gillmor	Lipinski
Canady	Gilman	Livingston
Cannon	Goode	LoBiondo
Castle	Goodlatte	Manton
Chabot	Goodling	Manzullo
Chambliss	Gordon	McCarthy (NY)
Chenoweth	Goss	McCollum
Clayton	Graham	McCrery
Clement	Granger	McDade
Clyburn	Green	McHugh
Coble	Greenwood	McInnis
Coburn	Gutknecht	McIntyre
Collins	Hall (TX)	McKeon
Combest	Hamilton	Metcalf
Condit	Hastert	Mica
Cook	Hastings (WA)	Miller (FL)
Cooksey	Hayworth	Mollohan
Cox	Hefley	Moran (KS)
Cramer	Hefner	Morella
Crane	Herger	Myrick

Nethercutt	Rogers
Ney	Rohrabacher
Northup	Ros-Lehtinen
Norwood	Roukema
Nussle	Royce
Oxley	Rush
Packard	Ryun
Pappas	Sabo
Parker	Salmon
Pastor	Sanchez
Paul	Sandlin
Paxon	Sanford
Pease	Saxton
Peterson (MN)	Schaefer, Dan
Peterson (PA)	Schaffer, Bob
Petri	Sensenbrenner
Pickering	Sessions
Pickett	Shadegg
Pitts	Shaw
Pomeroy	Shays
Porter	Shimkus
Portman	Shuster
Price (NC)	Sisisky
Pryce (OH)	Skeen
Quinn	Skelton
Ramstad	Smith (MI)
Redmond	Smith (TX)
Regula	Smith, Linda
Riggs	Snowbarger
Riley	Solomon
Rogan	Spence

NAYS—155

Abercrombie	Hastings (FL)	Obey
Ackerman	Hilliard	Oliver
Allen	Hinchey	Ortiz
Andrews	Holden	Owens
Baesler	Hooley	Pallone
Baldacci	Hoyer	Pascarell
Barrett (WI)	Jackson (IL)	Pombo
Becerra	Jackson-Lee	Poshard
Berman	(TX)	Radanovich
Bishop	Jefferson	Rahall
Blagojevich	Johnson (WI)	Rangel
Blumenauer	Kaptur	Reyes
Borski	Kasich	Rivers
Brown (FL)	Kennedy (MA)	Rodriguez
Brown (OH)	Kennedy (RI)	Roemer
Bryant	Kilpatrick	Rothman
Cardin	Kind (WI)	Roybal-Allard
Carson	Kingston	Sanders
Christensen	Klecza	Sawyer
Clay	Kucinich	Schumer
Conyers	LaFalce	Scott
Costello	Lantos	Serrano
Coyne	Largent	Sherman
Cummings	Lewis (GA)	Skaggs
Cunningham	Lofgren	Slaughter
Davis (IL)	Lowey	Smith (NJ)
DeFazio	Lucas	Smith (OR)
DeGette	Luther	Smith, Adam
Delahunt	Maloney (CT)	Snyder
DeLauro	Maloney (NY)	Souder
Dellums	Markey	Stabenow
Dickey	Martinez	Stark
Dixon	Mascara	Talent
Doggett	McCarthy (MO)	Tauscher
Doyle	McDermott	Taylor (NC)
Engel	McGovern	Thompson
English	McHale	Tierney
Ensign	McKinney	Torres
Evans	McNulty	Towns
Fattah	Meehan	Velazquez
Filner	Menendez	Vento
Flake	Millender-	Wamp
Foglietta	McDonald	Waters
Ford	Miller (CA)	Watts (OK)
Fox	Minge	Waxman
Frank (MA)	Mink	Weygand
Furse	Moakley	Wise
Gephardt	Moran (VA)	Woolsey
Gibbons	Murtha	Wynn
Gutierrez	Nadler	Yates
Hall (OH)	Neal	Young (AK)
Hansen	Neumann	
Harman	Oberstar	

NOT VOTING—18

Brown (CA)	Knollenberg	Pelosi
Cubin	Kolbe	Scarborough
Gilchrest	Matsui	Schiff
Gonzalez	McIntosh	Stokes
Houghton	Meek	Weldon (FL)
Kelly	Payne	Wolf

□ 1343

Messrs. OBEY, McNULTY, and HOLDEN changed their vote from "yea" to "nay."

Mrs. CLAYTON and Messrs. HUTCHINSON, COX of California, BOSWELL, LEWIS of California, and RUSH changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### PERSONAL EXPLANATION

Mr. KNOLLENBERG. Mr. Speaker, on roll-call No. 536, I was inadvertently detained. Had I been present, I would have voted "yes."

□ 1345

#### PRIVILEGES OF THE HOUSE—DISMISSAL OF CONTEST IN 46TH DISTRICT OF CALIFORNIA UPON EXPIRATION OF OCTOBER 31, 1997

Mr. GEPHARDT. Mr. Speaker, I rise to a question of the privileges of the House, and I send to the desk a privileged resolution (H. Res. 287) pursuant to rule IX and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 287

Whereas, Loretta Sanchez was issued a certificate of election as the duly elected Member of Congress from the 46th District of California by the Secretary of State of California and was seated by the U.S. House of Representatives on January 7, 1997; and

Whereas a Notice of Contest of Election was filed with the Clerk of the House by Mr. Robert Dornan on December 26, 1996; and

Whereas the Task Force on the Contested Election in the 46th District of California met on February 26, 1997 in Washington, D.C. on April 19, 1997 in Orange County, California and October 24, 1997 in Washington, D.C.; and

Whereas the allegations made by Mr. Robert Dornan have been largely found to be without merit: charges of improper voting from a business, rather than a resident address; underage voting; double voting; and charges of unusually large number of individuals voting from the same address. It was found that voting from the same address included a Marines barracks and the domicile of nuns, that business addresses were legal residences for the individuals, including the zoo keeper of the Santa Ana zoo, that duplicate voting was by different individuals and those accused of underage voting were of age; and

Whereas the Committee on House Oversight has issued unprecedented subpoenas to the Immigration and Naturalization Service to compare their records with Orange County voter registration records, the first time in any election in the history of the United States that the INS has been asked by Congress to verify the citizenship of voters; and

Whereas the INS has complied with the Committee's request and, at the Committee's request, has been doing a manual check of its paper files and providing worksheets containing supplemental information on that manual check to the Committee on House Oversight for over five months; and



Whereas the Committee on House Oversight, subpoenaed the records seized by the District Attorney of Orange County on February 13, 1997 and has received and reviewed all records pertaining to registration efforts of that group; and

Whereas some Members of the House Oversight Committee are now seeking a duplicate and dilatory review of materials already in the Committees possession by the Secretary of State of California; and

Whereas the Task Force on the Contested Election in the 46th District of California and the Committee have been reviewing these materials and has all the information it needs regarding who voted in the 46th District and all the information it needs to make judgments concerning those votes; and

Whereas the Committee on House Oversight has after over nine months of review and investigation failed to present credible evidence to change the outcome of the election of Congresswoman Sanchez and is pursuing never ending and unsubstantiated areas of review; and

Whereas, Contestant Robert Dornan has not shown or provided credible evidence that the outcome of the election is other than Congresswoman Sanchez's election to the Congress; and

Whereas, the Committee on House Oversight should complete its review of this matter and bring this contest to an end and now therefore be it:

*Resolved*, That unless the Committee on House Oversight has sooner reported a recommendation for its final disposition, the contest in the 46th District of California is dismissed upon the expiration of October 31, 1997.

The SPEAKER pro tempore. The resolution constitutes a question of the privileges of the House and must be considered at this time, since offered by the minority leader.

MOTION TO TABLE OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I offer a preferential motion to table the resolution.

The SPEAKER pro tempore. The Clerk will report the preferential motion to table.

The Clerk read as follows:

Mr. SOLOMON moves to table the resolution, House Resolution 287.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from New York [Mr. SOLOMON].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Without objection, the Chair may reduce to not less than 5 minutes the time for a vote by the yeas and nays on the question of suspending the rules and agreeing to House Resolution 139 postponed from yesterday, which will be immediately following this vote.

There was no objection.

The vote was taken by electronic device, and there were—yeas 218, nays 200, answered “present” 1, not voting 13, as follows:

[Roll No. 537]

YEAS—218

Aderholt	Gibbons	Paul
Archer	Gilchrest	Paxon
Arney	Gillmor	Pease
Bachus	Goodlatte	Peterson (PA)
Baker	Goodling	Petri
Ballenger	Goss	Pickering
Barr	Graham	Pitts
Barrett (NE)	Granger	Pombo
Bartlett	Greenwood	Porter
Barton	Gutknecht	Portman
Bass	Hansen	Pryce (OH)
Bateman	Hastert	Quinn
Bereuter	Hastings (WA)	Radanovich
Bilbray	Hayworth	Ramstad
Bilirakis	Hefley	Redmond
Bliley	Herger	Regula
Blunt	Hill	Riggs
Boehlert	Hilleary	Riley
Boehner	Hobson	Rogan
Bonilla	Hoekstra	Rogers
Bono	Horn	Rohrabacher
Brady	Hosettler	Ros-Lehtinen
Bryant	Hulshof	Roukema
Bunning	Hunter	Royce
Burr	Hutchinson	Ryun
Burton	Hyde	Salmon
Buyer	Inglis	Sanford
Callahan	Istook	Saxton
Calvert	Jenkins	Scarborough
Camp	Johnson (CT)	Schaefer, Dan
Campbell	Johnson, Sam	Schaffer, Bob
Canady	Jones	Sensenbrenner
Cannon	Kasich	Sessions
Castle	Kim	Shadeegg
Chabot	King (NY)	Shaw
Chambliss	Kingston	Shays
Chenoweth	Klug	Shimkus
Christensen	Knollenberg	Shuster
Coble	LaHood	Skeen
Coburn	Largent	Smith (MI)
Collins	Latham	Smith (NJ)
Combest	LaTourette	Smith (OR)
Cook	Lazio	Smith (TX)
Cooksey	Leach	Smith, Linda
Cox	Lewis (CA)	Snowbarger
Crane	Lewis (KY)	Solomon
Crapo	Linder	Souder
Cunningham	Livingston	Spence
Davis (VA)	LoBiondo	Stearns
Deal	Lucas	Stump
DeLay	Manzullo	Sununu
Diaz-Balart	McCollum	Talent
Dickey	McCrary	Tauzin
Doolittle	McDade	Taylor (NC)
Dreier	McHugh	Thomas
Duncan	McInnis	Thornberry
Dunn	McKeon	Thune
Ehlers	Metcalf	Tiahrt
Ehrlich	Mica	Traficant
Emerson	Miller (FL)	Upton
English	Moran (KS)	Walsh
Ensign	Morella	Wamp
Everett	Myrick	Watkins
Ewing	Nethercutt	Watts (OK)
Fawell	Neumann	Weldon (PA)
Foley	Ney	Weller
Fowler	Northup	White
Fox	Norwood	Whitfield
Franks (NJ)	Nussle	Wicker
Frelinghuysen	Oxley	Wolf
Galleghy	Packard	Young (AK)
Ganske	Pappas	Young (FL)
Gekas	Parker	

NAYS—200

Abercrombie	Brown (FL)	Dellums
Ackerman	Brown (OH)	Deutsch
Allen	Cardin	Dicks
Andrews	Carson	Dingell
Baesler	Clay	Dixon
Baldacci	Clayton	Doggett
Barcia	Clement	Dooley
Barrett (WI)	Clyburn	Doyle
Becerra	Condit	Edwards
Bentsen	Conyers	Engel
Berman	Costello	Eshoo
Berry	Coyne	Etheridge
Bishop	Cramer	Evans
Blagojevich	Cummings	Farr
Blumenauer	Danner	Fattah
Bonior	Davis (FL)	Fazio
Borski	Davis (IL)	Filner
Boswell	DeFazio	Flake
Boucher	DeGette	Foglietta
Boyd	Delahunt	Forbes
Brown (CA)	DeLauro	Ford

Frank (MA)	Luther	Roemer
Frost	Maloney (CT)	Rothman
Furse	Maloney (NY)	Roybal-Allard
Gejdenson	Manton	Rush
Gephardt	Markey	Sabo
Goode	Martinez	Sanders
Gordon	Mascara	Sandlin
Green	McCarthy (MO)	Sawyer
Gutierrez	McCarthy (NY)	Schumer
Hall (OH)	McDermott	Scott
Hall (TX)	McGovern	Serrano
Hamilton	McHale	Sherman
Harman	McIntyre	Sisisky
Hastings (FL)	McKinney	Skaggs
Hefner	McNulty	Skelton
Hilliard	Meehan	Slaughter
Hinchey	Menendez	Smith, Adam
Hinojosa	Millender	Snyder
Holden	McDonald	Spratt
Hooley	Miller (CA)	Stabenow
Hoyer	Minge	Stark
Jackson (IL)	Mink	Sterholm
Jackson-Lee	Moakley	Strickland
(TX)	Mollohan	Stupak
Jefferson	Moran (VA)	Tanner
John	Murtha	Tauscher
Johnson (WI)	Nadler	Taylor (MS)
Johnson, E. B.	Neal	Thompson
Kanjorski	Oberstar	Thurman
Kaptur	Obey	Tierney
Kennedy (MA)	Olver	Torres
Kennedy (RI)	Ortiz	Towns
Kennelly	Owens	Turner
Kildee	Pallone	Velazquez
Kilpatrick	Pascarell	Vento
Kind (WI)	Pastor	Visclosky
Klecza	Pelosi	Waters
Klink	Peterson (MN)	Watt (NC)
Kucinich	Pickett	Waxman
LaFalce	Pomeroy	Wexler
Lampson	Poshard	Weygand
Lantos	Price (NC)	Wise
Levin	Rahall	Woolsey
Lewis (GA)	Rangel	Wynn
Lipinski	Reyes	Yates
Lofgren	Rivers	
Lowey	Rodriguez	

ANSWERED “PRESENT”—1

Sanchez

NOT VOTING—13

Cubin	Kolbe	Schiff
Gilman	Matsui	Stokes
Gonzalez	McIntosh	Weldon (FL)
Houghton	Meek	
Kelly	Payne	

□ 1408

Mr. BROWN of California changed his vote from “yea” to “nay.”

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed yesterday in the order in which that motion was entertained.

Votes will be taken in the following order:

House Resolution 139, by the yeas and nays; H.R. 1484, de novo; and H.R. 1479, de novo.

Pursuant to the order of the House today, the Chair will reduce to 5 minutes the time for the first vote in this series.

SENSE OF THE HOUSE REGARDING  
DOLLARS TO THE CLASSROOM

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 139, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GOODLING] that House suspend the rules and agree to the resolution, H. Res. 139, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were— yeas 310, nays 99, not voting 23, as follows:

[Roll No. 538]

YEAS—310

Aderholt	Dickey	Johnson, Sam
Allen	Dicks	Jones
Archer	Dooley	Kasich
Armey	Doolittle	Kennelly
Bachus	Doyle	Kilpatrick
Baesler	Dreier	Kim
Baker	Duncan	King (NY)
Baldacci	Dunn	Kingston
Ballenger	Edwards	Klecza
Barr	Ehlers	Klink
Barrett (NE)	Ehrlich	Klug
Barrett (WI)	Emerson	Knollenberg
Bartlett	English	Kolbe
Barton	Ensign	LaFalce
Bass	Etheridge	LaHood
Bateman	Everett	Lampson
Bentsen	Fawell	Lantos
Bereuter	Fazio	Largent
Berman	Flake	Latham
Berry	Foley	LaTourette
Bilbray	Forbes	Lazio
Bilirakis	Fowler	Leach
Bishop	Fox	Lewis (CA)
Bliley	Franks (NJ)	Lewis (KY)
Blunt	Frelinghuysen	Linder
Boehlert	Gallely	Lipinski
Boehner	Ganske	Livingston
Bonilla	Gekas	LoBiondo
Bono	Gibbons	Lofgren
Borski	Gilchrest	Lowey
Boswell	Gillmor	Lucas
Boucher	Gilman	Luther
Boyd	Goode	Maloney (CT)
Brady	Goodlatte	Maloney (NY)
Bryant	Goodling	Manzullo
Bunning	Gordon	Mascara
Burr	Goss	Matsui
Burton	Graham	McCarthy (NY)
Buyer	Granger	McCollum
Callahan	Green	McCrery
Calvert	Greenwood	McDade
Camp	Gutknecht	McGovern
Campbell	Hall (OH)	McHale
Canady	Hall (TX)	McHugh
Cannon	Hansen	McInnis
Cardin	Harman	McIntyre
Castle	Hastert	McKeon
Chabot	Hayworth	Metcalf
Chambliss	Hefley	Mica
Chenoweth	Hefner	Millender-
Christensen	Herger	McDonald
Clement	Hilleary	Miller (FL)
Coble	Hinchey	Minge
Coburn	Hobson	Mollohan
Collins	Hoekstra	Moran (KS)
Combest	Holden	Moran (VA)
Condit	Hoolley	Morella
Cook	Horn	Murtha
Cooksey	Hostettler	Myrick
Costello	Hulshof	Nethercutt
Cox	Hunter	Neumann
Cramer	Hutchinson	Ney
Crane	Hyde	Northup
Crapo	Inglis	Norwood
Cunningham	Istook	Nussle
Danner	Jackson-Lee	Oberstar
Davis (FL)	(TX)	Obey
Deal	Jenkins	Oxley
DeFazio	John	Packard
DeLay	Johnson (CT)	Pappas
Diaz-Balart	Johnson (WI)	Parker

Pascrell	Royce	Stabenow
Pastor	Ryun	Stearns
Paul	Sabo	Stenholm
Paxon	Salmon	Strickland
Pease	Sanchez	Stump
Peterson (MN)	Sandlin	Sununu
Peterson (PA)	Sanford	Talent
Petri	Saxton	Tanner
Pickering	Scarborough	Tauscher
Pickett	Schaefer, Dan	Tauzin
Pitts	Schaffer, Bob	Taylor (MS)
Pombo	Schumer	Taylor (NC)
Pomeroy	Sensenbrenner	Thomas
Porter	Sessions	Thornberry
Portman	Shadegg	Thune
Poshard	Shaw	Thurman
Price (NC)	Shays	Tiahrt
Pryce (OH)	Shimkus	Towns
Quinn	Shuster	Trafciant
Radanovich	Sisisky	Turner
Rahall	Skeen	Upton
Ramstad	Skelton	Walsh
Redmond	Smith (MI)	Wamp
Regula	Smith (NJ)	Watkins
Riggs	Smith (OR)	Watts (OK)
Riley	Smith (TX)	Weldon (PA)
Roemer	Smith, Adam	Weller
Rogan	Smith, Linda	White
Rogers	Snowbarger	Whitfield
Rohrabacher	Snyder	Wicker
Ros-Lehtinen	Solomon	Wolf
Rothman	Souder	Young (AK)
Roukema	Spence	Young (FL)

NAYS—99

Abercrombie	Gedden	Ortiz
Ackerman	Gephardt	Owens
Andrews	Gutierrez	Pallone
Becerra	Hastings (FL)	Pelosi
Blagojevich	Hilliard	Reyes
Blumenauer	Hinojosa	Rivers
Bonior	Jackson (IL)	Rodriguez
Brown (CA)	Jefferson	Roybal-Allard
Brown (FL)	Johnson, E. B.	Rush
Brown (OH)	Kanjorski	Sanders
Clay	Kaptur	Sawyer
Clayton	Kennedy (MA)	Scott
Flake	Kennedy (RI)	Serrano
Latham	Kildee	Sherman
Conyers	Kind (WI)	Skaggs
Coyne	Kucinich	Slaughter
Cummings	Levin	Spratt
Davis (IL)	Lewis (GA)	Stark
DeGette	Manton	Stupak
Delahunt	Markey	Thompson
DeLauro	Martinez	Tierney
Dellums	McCarthy (MO)	Torres
Deutsch	McDermott	Velazquez
Dingell	McKinney	Vento
Dixon	McNulty	Visclosky
Doggett	Meehan	Watt (NC)
Engel	Menendez	Waxman
Eshoo	Miller (CA)	Wexler
Farr	Mink	Weygand
Filner	Moakley	Wise
Foglietta	Nadler	Woolsey
Ford	Neal	Wynn
Frank (MA)	Olver	Yates
Frost		

NOT VOTING—23

Barcia	Gonzalez	Meek
Carson	Hamilton	Payne
Cubin	Hastings (WA)	Rangel
Davis (VA)	Hill	Schiff
Evans	Houghton	Stokes
Ewing	Hoyer	Waters
Fattah	Kelly	Weldon (FL)
Furse	McIntosh	

□ 1417

Mr. WYNN changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. EWING. Mr. Speaker, on rollcall No. 538, I was chairing a subcommittee and un-

able to vote. Had I been present, I would have voted "yes."

## PERSONAL EXPLANATION

Mr. HILL. Mr. Speaker, on rollcall No. 538, I was inadvertently detained. Had I been present, I would have voted "yes."

J. ROY ROWLAND FEDERAL  
COURTHOUSE

The SPEAKER pro tempore (Mr. LAHOOD). The unfinished business is the question de novo of suspending the rules and passing the bill, H.R. 1484, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. KIM] that the House suspend the rules and pass the bill H.R. 1484, as amended.

The question was taken.

Ms. JACKSON-LEE of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 0, not voting 18, as follows:

[Roll No. 539]

YEAS—414

Abercrombie	Canady	Ehrlich
Ackerman	Cannon	Emerson
Aderholt	Cardin	Engel
Allen	Carson	English
Andrews	Castle	Ensign
Archer	Chabot	Eshoo
Armey	Chambliss	Etheridge
Bachus	Chenoweth	Evans
Baesler	Christensen	Everett
Baker	Clay	Ewing
Baldacci	Clayton	Farr
Ballenger	Clement	Fawell
Barcia	Clyburn	Fazio
Barr	Coble	Filner
Barrett (NE)	Coburn	Flake
Barrett (WI)	Collins	Foley
Bartlett	Combest	Forbes
Barton	Condit	Ford
Bass	Cook	Fowler
Bateman	Cooksey	Fox
Becerra	Costello	Frank (MA)
Bentsen	Cox	Franks (NJ)
Bereuter	Coyne	Frelinghuysen
Berman	Cramer	Frost
Berry	Crapo	Furse
Bilbray	Cummings	Gallely
Bilirakis	Cunningham	Ganske
Bishop	Danner	Gedden
Blagojevich	Davis (FL)	Gekas
Bliley	Davis (IL)	Gephardt
Blumenauer	Davis (VA)	Gibbons
Blunt	Deal	Gilchrest
Boehlert	DeFazio	Gillmor
Boehner	DeGette	Gilman
Bonilla	Delahunt	Goode
Bonior	DeLauro	Goodlatte
Bono	DeLay	Goodling
Borski	Dellums	Gordon
Boswell	Deutsch	Goss
Boucher	Diaz-Balart	Graham
Boyd	Dickey	Granger
Brady	Dicks	Green
Brown (CA)	Dingell	Greenwood
Brown (FL)	Dixon	Gutierrez
Brown (OH)	Doggett	Gutknecht
Bryant	Dooley	Hall (OH)
Bunning	Doolittle	Hall (TX)
Burr	Doyle	Hamilton
Buyer	Dreier	Hansen
Callahan	Duncan	Harman
Calvert	Dunn	Hastert
Camp	Edwards	Hastings (FL)
Campbell	Ehlers	Hayworth

□ 1426

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to redesignate the United States courthouse located at 100 Franklin Street in Dublin, Georgia, as the 'J. Roy Rowland United States Courthouse'."

A motion to reconsider was laid on the table.

#### DAVID W. DYER FEDERAL COURTHOUSE

The SPEAKER pro tempore. The unfinished business is the question de novo of suspending the rules and passing the bill, H.R. 1479, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. KIM] that the House suspend the rules and pass the bill, H.R. 1479, as amended.

The question was taken.

Ms. JACKSON-LEE of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were— yeas 411, nays 0, not voting 21, as follows:

[Roll No. 540]

YEAS—411

Hefley	McHugh	Sanders
Hefner	McInnis	Sandlin
Herger	McIntyre	Sanford
Hill	McKeon	Sawyer
Hilleary	McKinney	Saxton
Hilliard	McNulty	Scarborough
Hinchey	Meehan	Schaefer, Dan
Hinojosa	Menendez	Schaffer, Bob
Hobson	Metcalfe	Schumer
Hoekstra	Mica	Scott
Holden	Millender-	Sensenbrenner
Hooley	McDonald	Serrano
Horn	Miller (CA)	Sessions
Hostettler	Miller (FL)	Shadegg
Hoyer	Minge	Shaw
Hulshof	Mink	Shays
Hunter	Moakley	Sherman
Hutchinson	Mollohan	Shimkus
Hyde	Moran (KS)	Shuster
Inglis	Moran (VA)	Sisisky
Istook	Morella	Skaggs
Jackson (IL)	Murtha	Skeen
Jackson-Lee	Myrick	Skelton
(TX)	Nadler	Slaughter
Jefferson	Neal	Smith (MI)
Jenkins	Nethercutt	Smith (NJ)
John	Neumann	Smith (OR)
Johnson (CT)	Ney	Smith (TX)
Johnson (WI)	Northup	Smith, Adam
Johnson, E. B.	Norwood	Smith, Linda
Johnson, Sam	Nussle	Snowbarger
Jones	Oberstar	Snyder
Kanjorski	Obey	Solomon
Kaptur	Olver	Souder
Kasich	Ortiz	Spence
Kennedy (MA)	Owens	Spratt
Kennedy (RI)	Packard	Stabenow
Kennelly	Pallone	Stark
Kildee	Pappas	Stearns
Kilpatrick	Parker	Stenholm
Kim	Pascarell	Strickland
Kind (WI)	Pastor	Stump
King (NY)	Paul	Stupak
Kingston	Paxon	Sununu
Klecza	Pease	Talent
Klink	Pelosi	Tanner
Klug	Peterson (MN)	Tauscher
Knollenberg	Peterson (PA)	Tauzin
Kolbe	Petri	Taylor (MS)
Kucinich	Pickering	Taylor (NC)
LaFalce	Pickett	Thomas
LaHood	Pitts	Thompson
Lampson	Pomboy	Thornberry
Lantos	Porter	Thune
Largent	Portman	Tierney
Latham	Poshard	Torres
LaTourette	Price (NC)	Towns
Lazio	Pryce (OH)	Traficant
Leach	Quinn	Turner
Levin	Radanovich	Upton
Lewis (CA)	Rahall	Velazquez
Lewis (GA)	Ramstad	Vento
Lewis (KY)	Rangel	Visclosky
Linder	Redmond	Walsh
Lipinski	Regula	Wamp
Livingston	Rofgren	Waters
LoBiondo	Riggs	Watkins
Lofgren	Riley	Watt (NC)
Lowey	Rivers	Watts (OK)
Lucas	Rodriguez	Waxman
Luther	Roemer	Weller
Maloney (CT)	Rogan	Wexler
Maloney (NY)	Rogers	Weygand
Manton	Rohrabacher	White
Manzullo	Ros-Lehtinen	Whitfield
Markey	Rothman	Wicker
Martinez	Roukema	Wise
Mascara	Roybal-Allard	Wolf
Matsui	Royce	Woolsey
McCarthy (MO)	Rush	Wynn
McCarthy (NY)	Ryun	Yates
McCollum	Sabo	Young (AK)
McCrery	Salmon	Young (FL)
McDermott	Sanchez	
McGovern		
McHale		

## NOT VOTING—18

Burton	Gonzalez	Meek
Conyers	Hastings (WA)	Payne
Crane	Houghton	Schiff
Cubin	Kelly	Stokes
Fattah	McDade	Thomas
Foglietta	McIntosh	Weldon (FL)

Abercrombie	Bryant	Diaz-Balart
Ackerman	Bunning	Dickey
Aderholt	Burr	Dicks
Allen	Burton	Dingell
Andrews	Buyer	Dixon
Archer	Callahan	Doggett
Armey	Calvert	Dooley
Bachus	Camp	Doolittle
Baesler	Campbell	Doyle
Baker	Cannon	Dreier
Baldacci	Cardin	Duncan
Balenger	Carson	Dunn
Barcia	Castle	Edwards
Barr	Chabot	Ehlers
Barrett (NE)	Chambliss	Ehrlich
Barrett (WI)	Chenoweth	Emerson
Bartlett	Christensen	Engel
Barton	Clayton	English
Bass	Clement	Ensign
Bateman	Clyburn	Eshoo
Becerra	Coble	Etheridge
Bentsen	Collins	Evans
Bereuter	Combest	Everett
Berman	Condit	Ewing
Berry	Cook	Farr
Bilbray	Cooksey	Fawell
Bilirakis	Costello	Fazio
Bishop	Cox	Filner
Blagojevich	Coyne	Flake
Bliley	Cramer	Foley
Blumenauer	Crane	Forbes
Blunt	Crapo	Ford
Boehlert	Cummings	Fowler
Boehner	Cunningham	Fox
Bonilla	Danner	Frank (MA)
Bonior	Davis (FL)	Franks (NJ)
Bono	Davis (IL)	Frelinghuysen
Borski	Davis (VA)	Frost
Boswell	Deal	Furse
Boucher	DeFazio	Gallegly
Boyd	DeGette	Ganske
Brady	Delahunt	Gejdenson
Brown (CA)	DeLauro	Gekas
Brown (FL)	DeLay	Gephardt
Brown (OH)	Dellums	Gibbons

Gilchrest	Luther	Rothman
Gillmor	Maloney (CT)	Roukema
Gilman	Maloney (NY)	Roybal-Allard
Goode	Manton	Royce
Goodlatte	Manzullo	Rush
Goodling	Markey	Ryun
Gordon	Martinez	Sabo
Goss	Mascara	Salmon
Graham	Matsui	Sanchez
Granger	McCarthy (MO)	Sanders
Green	McCarthy (NY)	Sandlin
Greenwood	McCollum	Sanford
Gutierrez	McCrery	Saxton
Gutknecht	McDade	Scarborough
Hall (OH)	McDermott	Schaefer, Dan
Hall (TX)	McGovern	Schaffer, Bob
Hamilton	McHale	Schumer
Hansen	McHugh	Scott
Harman	McInnis	Sensenbrenner
Hastert	McIntyre	Sessions
Hastings (FL)	McKeon	Shadegg
Hastings (WA)	McKinney	Shaw
Hayworth	McNulty	Shays
Hefley	Meehan	Sherman
Hefner	Menendez	Shimkus
Herger	Metcalfe	Shuster
Hill	Mica	Sisisky
Hilleary	Millender-	Skaggs
Hilliard	McDonald	Skeen
Hinchey	Miller (CA)	Skelton
Hinojosa	Miller (FL)	Slaughter
Hobson	Minge	Smith (MI)
Hoekstra	Mink	Smith (NJ)
Holden	Moakley	Smith (OR)
Hooley	Mollohan	Smith (TX)
Horn	Moran (KS)	Smith, Adam
Hostettler	Moran (VA)	Smith, Linda
Hoyer	Morella	Snowbarger
Hulshof	Murtha	Snyder
Hunter	Myrick	Solomon
Hutchinson	Nadler	Souder
Hyde	Neal	Spence
Inglis	Nethercutt	Spratt
Istook	Neumann	Stabenow
Jackson (IL)	Ney	Stark
Jackson-Lee	Northup	Stearns
(TX)	Norwood	Stenholm
Jefferson	Nussle	Strickland
Jenkins	Oberstar	Stump
John	Obey	Stupak
Johnson (CT)	Olver	Sununu
Johnson (WI)	Ortiz	Talent
Johnson, E. B.	Owens	Tanner
Johnson, Sam	Oxley	Tauscher
Jones	Packard	Tauzin
Kanjorski	Pallone	Taylor (MS)
Kaptur	Pappas	Taylor (NC)
Kasich	Parker	Thomas
Kennedy (MA)	Pascarell	Thompson
Kennedy (RI)	Pastor	Thornberry
Kennelly	Paul	Thune
Kildee	Paxon	Thurman
Kilpatrick	Pease	Tiaht
Kim	Pelosi	Tierney
Kind (WI)	Peterson (MN)	Torres
King (NY)	Peterson (PA)	Towns
Kingston	Petri	Traficant
Klecza	Pickering	Turner
Klink	Pickett	Upton
Klug	Pitts	Velazquez
Knollenberg	Pomboy	Vento
Kolbe	Pomeroy	Visclosky
Kucinich	Porter	Walsh
LaFalce	Portman	Wamp
LaHood	Poshard	Waters
Lampson	Price (NC)	Watkins
Lantos	Quinn	Watt (NC)
Largent	Radanovich	Watts (OK)
Latham	Rahall	Waxman
LaTourette	Ramstad	Weller
Lazio	Rangel	Wexler
Leach	Redmond	Weygand
Levin	Regula	White
Lewis (CA)	Reyes	Whitfield
Lewis (GA)	Riggs	Wicker
Lewis (KY)	Riley	Wise
Linder	Rivers	Wolf
Lipinski	Rodriguez	Woolsey
Livingston	Roemer	Wynn
LoBiondo	Rogan	Yates
Lofgren	Rogers	Young (AK)
Lowey	Rohrabacher	Young (FL)
Lucas	Ros-Lehtinen	

## NOT VOTING—21

Canady	Cubin	Gonzalez
Clay	Deutsch	Houghton
Coburn	Fattah	Kelly
Conyers	Foglietta	McIntosh

Meek  
Payne  
Pryce (OH)

Sawyer  
Schiff  
Serrano

Stokes  
Weldon (FL)  
Weldon (PA)

□ 1433

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to designate the Federal building and United States courthouse located at 300 Northeast First Avenue in Miami, Florida, as the 'David W. Dyer Federal Building and United States Courthouse'."

A motion to reconsider was laid upon the table.

#### PERSONAL EXPLANATION

Ms. PRYCE of Ohio. Mr. Speaker, I was unavoidably detained. Had I been present, I would have voted "aye."

#### MOTION TO INSTRUCT CONFEREES ON H.R. 2267, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. ROHRABACHER. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the motion.

The Clerk read as follows:

Mr. ROHRABACHER moves that the managers on the part of the House at the conference on the disagreeing votes of the House and the Senate on H.R. 2267, Commerce-Justice-State-Judiciary Appropriations Act for fiscal year 1998, be instructed to insist on the House's disagreement with section 111 of the Senate amendment, which provides for a permanent extension of section 245(i) of the Immigration and Nationality Act.

The SPEAKER pro tempore. Pursuant to rule XXVIII, the gentleman from California [Mr. ROHRABACHER] and the gentleman from West Virginia [Mr. MOLLOHAN] each will control 30 minutes.

The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. MOLLOHAN. Mr. Speaker, I yield 15 minutes to the distinguished chairman of the subcommittee, the gentleman from Kentucky [Mr. ROGERS].

The SPEAKER pro tempore. Without objection, the gentleman from Kentucky will control 15 minutes.

There was no objection.

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I offer this motion to instruct conferees to try to prevent the enactment of a permanent rolling amnesty program for illegal aliens. Let me repeat that, "a permanent rolling amnesty program for illegal aliens." That is what the issue is today.

Contained in the Senate version of the Commerce-State-Justice appropriations bill is a perpetual extension of an

infamous provision of law that has never won an up-and-down vote on the floor of either the House or the Senate. In fact, the only direct vote ever taken on this provision was taken in this House, and it lost.

Section 245(i) of the Immigration and Nationality Act allows people who are in the United States illegally to pay \$1,000 to the INS to have their legal status changed. I know a lot of my colleagues have been told this only deals with people who have come here and overstayed their visas. That is absolutely inaccurate, and if they base their judgment on that supposed fact, they have been given a misrepresentation.

The INS suggests to us that 62 percent of the people using 245(i) are people who have come into this country illegally, did not come in with visas, snuck into our country. And, yes, some of them came in with visas and just arrogantly overstayed their visas and decided to stay here on an illegal status.

Make no mistake about it, 245(i) is only about illegal aliens who have snuck across our borders or who have overstayed their visas. This provision exists because it brings in hundreds of millions of dollars a year to the Immigration and Naturalization Service, even though they have only gotten around to spending about 5 percent of the 245(i) revenues.

This provision is bad for our country because it undermines our laws. It ends up costing us a lot more than that \$200 million a year, because these people often come here, and illegal aliens, as we know, commit crimes and cost us in other ways. But it also undermines our trust in the law, it violates our national security, and it punishes millions of people around the world who are eligible for permanent residence in the United States but they are waiting their turn, they are waiting in line, and they are separated from their families.

Last year, we passed the Illegal Immigration Reform Act which was widely supported by Americans, immigrants and native-born alike. This reform was a promise to the American taxpayers that we would no longer reward those who break the law. We promised them that their hard-earned tax dollars would not be spent to pay for an immigration system that is contradictory and randomly applied. And we promised our newest American citizens that we would uphold the integrity of the system that they so apparently respected, waiting for months and many times for years to come to the United States of America.

If 245(i) is extended, or what this act wants to do is actually extend it in perpetuity, just make it a permanent provision of the law, the Illegal Immigration Reform Act that we passed last year is null and void, it has been passed in vain; 245(i) not only compromises the integrity of our laws, it also compromises our national security.

The legal immigration process which 245(i) beneficiaries bypass, the regular

immigration process, requires would-be Americans to undergo background checks in their own countries by our State Department consuls. These officials, American officials, conduct a thorough background check in the applicants' home countries, where there are files and there are local officials to call, in order to screen out terrorists and criminals. They also check for an applicant's ability to stay off welfare.

Section 245(i) allows and encourages anyone in the world to skip the background check and skip the welfare probability check and to come here illegally and to pay \$1,000. They then undergo a much less thorough check through the INS. In the meantime, while they are going through this much less thorough check, they are here in the United States of America. If they are terrorists or their criminal background is evident, they are here legally through the 245(i) process while they are being adjudicated. Native country screening for prospective Americans is vital to the safety of our citizens and the security of this country.

Mr. Speaker, we will hear from the other side today that 245(i) is just a matter of location, again, another piece of misinformation that has been passed out: It is just a matter of where someone picks up their visa. That is absolutely not true.

In fact, since most of the beneficiaries of 245(i) have lived here illegally for more than 6 months, most of them would not be eligible for a home-country visa. Meaning, if they returned home, they would not be able to do it anyway because they have already stayed here illegally over 6 months. The only possible way that they could get their visa to stay here legally would be to use 245(i) in this situation. Thus, what do we have? We are making it easier to immigrate illegally into the United States then it is for people to immigrate legally.

We will hear today that without 245(i) the families of illegal aliens may be separated, and that is true. There is no doubt about it, and we care about these people and these families. They put themselves in this situation, unfortunately. But what they will not tell us when we are discussing this, and even though our hearts go out to those people who are going to be separated, we also have a heart for those family members around the world who obey our laws, and they are separated from their families and they are waiting for months and sometimes years to come to this country. What about these families?

Permanently extending 245(i) means we are rewarding people who break our laws and penalizing those who abide by them. We are siding with the families of lawbreakers over those people who stay in line and are waiting, apparently, to obey our laws and come here as proud citizens of the United States of America.

Well, we have a chance to right this wrong, Mr. Speaker. We do not have to

tell everyone in the world that the best and quickest way to a green card is to break our laws and to come here illegally. We can vote for instruction to conferees that will tell our conferees that a permanent extension of this gaping 245(i) loophole is unacceptable.

I would ask for a resounding "yes" on this vote for these commonsense instructions. Let me remind my colleagues, what we are doing today in a motion to instruct is asking our conferees not to go along with a permanent extension. That does not mean that we cannot sit down and negotiate and try to come up with a compromise on 245(i). But if we do not and our conferees go along with this, if our conferees go along with a permanent extension, there will be no compromise in the future. We have foregone that option.

□ 1445

Please, let us go for compromise, let us go for trying to mold this and make this more humane, but let us try to deal with the issue. I would ask for a yes vote on my motion to instruct conferees.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise in opposition to the motion to instruct. I am opposed to the motion not because I support a permanent extension, far from it. I do not. In fact, we are opposing a permanent extension, which the Senate would like to do. I think we need to not extend the 245(i) provision in the future, but by the same token, I think we have to leave open for the conferees to work in a fair and equitable fashion on the equities of people who have relied upon 245(i) in the past and that are presently in the country, who came here with the expectation that 245(i) would be available to them. I think we have to be free to deal with the equities of families who are here now.

For those in the future, however, who are thinking of coming here and trying to become citizens, they can know that in the future 245(i) will not be available. But for those here now, I think we have to be free to deal with them in a fair and equitable way.

I agree with the gentleman on opposing permanent extension. This conferee certainly and others are fighting permanent extension as hard as we know how. By the same token, I would ask that my colleagues defeat the motion to instruct, to leave us some freedom to deal with those who are here who find themselves in an awkward situation not of their making. I would hope that the Members of the body would leave the conferees some flexibility on the matter and not vote for this motion to instruct. I would hope that we would vote "no".

Mr. Speaker, I yield the balance of my time to the gentlewoman from Florida [Ms. ROS-LEHTINEN] and ask unanimous consent that she be permitted to control that time.

The SPEAKER pro tempore [Mr. CAMP]. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MOLLOHAN. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I rise in opposition to the Rohrabacher motion. The Rohrabacher motion proposes that we disagree with the Senate's provision to permanently extend 245(i) of the Immigration and Naturalization Act and in the process really ties the hands of the conferees. Section 245 allows individuals who are already in this country who are eligible to become legal permanent residents to pay a fee and adjust their visa status here in the United States instead of having to go overseas to do so. Extension of this provision is an important immigration policy issue and one with serious financial impact implications.

Let me assure my colleagues that the conferees of the Commerce-Justice-State appropriations bill are working in good faith to weigh the issues associated with 245(i) and arrive at the best solution. I ask my colleagues to recognize that, not to tie our hands, and, therefore, I urge our colleagues to oppose this Rohrabacher motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 1 minute.

Pardon me, but it is nonsense to try to read this proposal to instruct conferees and to suggest that it ties the hands of anyone. The bottom line is, read this motion to instruct. It just precludes us from permanently extending this immigration loophole to which hundreds of thousands of illegal immigrants are pouring in and being permitted to stay in this country illegally. We can make any type of compromise after that. The conferees can agree to anything else. But we are preventing a permanent extension of what is an ongoing amnesty program for illegal aliens. If we can agree, make some compromises, that is totally within this motion to instruct conferees. No one should oppose this motion based on that illogical analysis of what my motion is all about.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HORN].

(Mr. HORN asked and was given permission to revise and extend his remarks.)

Mr. HORN. Mr. Speaker, here we have another attraction for people to come here illegally and then realize, well, "we are sort of dumb here and we will say 'if you pay us \$1,000, you can sort of stay around.'"

Let us not just think about the young Americans that are pushed out of jobs by illegals, which started me on this issue in 1975. The leaders of Watts showed me how illegal immigrants were pushing out young people who were in entry jobs as teenagers in hotels, in restaurants, and in gasoline stations.

But we are also harming people from other countries who are following the rules and want to come here legally.

Let us look at the three major countries where future citizens are waiting for years. The Philippines. These are our allies. These are the people to whom we gave independence in 1946. They have been waiting in line since September 1986 to come legally to the United States under the first preference category.

India. The richest ethnic community in the United States are the people who have come from India legally, doctors, lawyers, Ph.D.s on university faculties. Those waiting to come here under the fourth preference in India goes back to June 1985.

Mexico. If you are a brother or a sister of an adult U.S. citizen, you have been "standing in line" legally in Mexico since 1986. They are not part of the 49 countries that pour over our southern border. They are trying to obey the laws of this land. How are we treating them? We are saying, come on over anytime, extend your stay, and all will be forgiven if you pay us \$1,000.

When I see the flyers being passed out at the door on this vote on how business looks on this as a great revenue raiser to incarcerate criminal aliens, and—gee whiz say these business interests—the \$1,000 resulted in \$200 million. Let me tell my colleagues that the State of California spends \$400 million to \$500 million of its own money on handling criminal aliens. You are right, there should be something done about it. But it is not this way. When people who are coming here illegally are also being exploited by businesses, that is wrong.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise today in strong opposition to the Rohrabacher motion to instruct the conferees on the extension of section 245(i). Section 245(i) allows parents, students, doctors and teachers who have already received an INS-approved visa petition to renew or adjust their immigration status in the United States. The ways in which to receive an INS-approved visa petition is to either have an American family member or an employer such as Motorola or Texas Instruments, who both support this provision, sponsor the person. Section 245(i) would enable these American businesses to retain skilled and trained personnel in order to prosper.

Under 245(i), eligible immigrants whom the INS has already determined should be allowed to become permanent residents would normally need to return to their home consulates to renew their immigration status, leaving behind their American spouses and children. By passing an extension of 245(i), these people would be allowed to renew their immigration status in the United States while remaining in the company of their American loved ones. In fact, the only thing that the extension of 245 would do is to change the location of where a person's immigrant

visa is renewed. Section 245(i) does not give special benefits to illegal immigrants. This means that the person who illegally snuck across the border, who therefore does not have an INS-approved visa petition, does not qualify for 245(i).

After being subjected to fingerprinting and rigorous background checks, immigrants who have never been convicted of a crime provide and fund our INS' detention and deportation activities by paying a sum of \$1,000 to have their status renewed. It raises \$200 million to our U.S. Treasury.

That is why Americans for Tax Reform, headed by Grover Norquist, supports the extension of 245(i). I urge my colleagues to vote against the Rohrabacher motion and support the renewal of 245(i) because it is essential and beneficial to American businesses and, indeed, to the American taxpayer. By supporting 245(i), we would support America and the scores of organizations and corporations which are depending on our vote.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 1 minute.

Yes, big business does want this loophole to stay in place because it is exploiting illegal aliens and bringing down the pay of American workers, who are now having to face competition with people who were not meant to be here in the first place. That is immoral. It is an immoral thing, but our companies want to make a profit at it; fine, let us keep the loophole in place. That is wrong. It is wrong logic. It is not right for the Congress of the United States to be representing the interests of big business and illegal aliens and not representing the interests of the American people in between.

Mr. Speaker, we just heard that a person who illegally comes across our border is not eligible for 245(i). That is not the case. That is why 62 percent of the people who have used 245(i) are people who have snuck across our border and come here illegally. Someone who sneaks across the border, comes here illegally, finds himself a big businessman who will pay him substandard wages but will be willing to sponsor him or anybody else who he suckers into sponsoring him, they are then eligible for 245(i). Sixty-two percent of the hundreds of thousands of illegal aliens who have used this have come in just that way. They have snuck in illegally.

Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. BLUNT].

Mr. BLUNT. Mr. Speaker, I rise in support of this motion to instruct our conferees. The permanent extension of 245(i) really flies in the face of immigration reform. Whatever we need to do to work out immigration problems for people who are already in the country I think can be done within this motion to instruct. But certainly leaving this on the books, making it easier for people to illegally come to the country than for people to legally come to the

country hurts people who are waiting to come to the country. It keeps people's families separated who have been in line, who have been waiting to come to the country.

Ending section 245(i) will not be harmful to businesses who employ legal aliens. Those individuals are already protected under 245(a), which says if you fall through the cracks, if there is some error that is not your fault that puts your status here in jeopardy, without paying \$1,000 you can get that straightened out. This is really designed to protect the people who are here legally, working hard, having their families together, not to open the door to illegal aliens.

Mr. MOLLOHAN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Speaker, I rise today to express my strong opposition to the Rohrabacher motion to instruct conferees on H.R. 2267. The gentleman from California [Mr. ROHRABACHER] seeks to instruct the conferees to accept the House position with regard to 245(i) extension for illegal immigrants, a position which by allowing for the expiration would force hundreds of thousands of immigrants to return home in order to apply for a permanent visa. But what is even worse is that once these immigrants have left the United States, they would not be permitted to return to this country for 3 years or even 10 years in certain cases.

Extension of 245(i) is not a giveaway to illegal immigrants. Rather, this section can only be used by those who are already entitled to become permanent residents based on family or employer petitions. Forcing these people, many of whom have established strong ties with families, communities, and employers, to leave the country for 3 years or more is unfair and counterproductive. I urge my colleagues to vote against the Rohrabacher motion and signal your support for a reasonable response to an important issue that affects hundreds of thousands of families in this country.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. DIAZ-BALART].

(Mr. DIAZ-BALART asked and was given permission to revise and extend his remarks.)

□ 1500

Mr. DIAZ-BALART. Mr. Speaker, I thank the distinguished gentlewoman from Florida not only for yielding me time, but for her leadership on this important issue, as she has demonstrated on so many other issues throughout her tenure, extraordinary tenure, in Congress.

With the utmost respect for my dear friend, the gentleman from California [Mr. ROHRABACHER], this is the ultimate issue of confusing apples and oranges. No one can use section 241(i) unless they are eligible for permanent residency in the United States. Unless you qualify for legal residency in the

United States, you cannot use section 241(i).

I want to repeat that. I think it is important to repeat it, because of the confusion that is being spread this afternoon.

Section 245(i) says that if you are eligible for a green card, if you meet all the requirements for a green card, and, as the distinguished gentlewoman from Florida said, if, after meeting the requirements for a green card, you apply for permanent residency in the United States pursuant to section 245(i), then you have to go through all the requirements of getting the background check, criminal check and all that other very important procedure.

So this is not a matter that is appropriately addressed as one of illegal immigration. It is a matter of permitting people who are eligible and who qualify under all the requirements for permanent residency to seek their permanent residency in the United States. So it is an issue of common sense. It is an issue of fairness.

It is also an issue of proportionality. Why do I say it is an issue of proportionality, Mr. Speaker? The new immigration law says if you have technically at any point fallen out of status in the United States, if you were a student and, for example, not meeting your full course load and fell out of status for over 6 months, the new immigration law says you have to be out of the country for 3 years before you can even apply to come back.

Section 245(i) says if after having been technically out of status you qualify, as long as you qualify completely for permanent residence in the United States, then you can use 245(i) to seek permanent residence in the United States and not be barred for 3 years. So the issue of proportionality, I think, is very important.

I would like to say in addition to fairness, in addition to common sense, in addition to proportionality, there is a perception issue here.

Mr. Speaker, this issue has grown to one of immense proportions in the Hispanic community throughout the United States. I think it is appropriate for all my esteemed colleagues to know that this is perceived by the Hispanic community as one directly related to how immigrants in the United States are treated. I think it is important for all of our esteemed colleagues in this House to know that.

So, because of fairness, because of common sense, because of proportionality, and because of perception, I ask all my distinguished colleagues to vote "no" on Rohrabacher today, and to give a strong vote of confidence to this commonsense 245(i).

Mr. ROHRABACHER. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. DEAL], to talk about why he is opposed to this provision that has permitted 400,000 people already to illegally come into the United States.

Mr. DEAL of Georgia. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, we are going to hear debates that are emotional, that are based on personal points of view and perceptions that we do not all agree with. But there is one point of view we should all agree with, and that is we are a nation of law. It is our responsibility to make that law. It is our responsibility to forge support for the concept of law.

This is a situation, as I view it, in which the prerequisite that is indisputable for eligibility under 245(i) is that you be in violation of the law.

Mr. Speaker, can one think of any other statute that we have that says to qualify for the provisions of this statute, you must be a law violator? I can only think of one. That is where, in order to get a pardon, you must be in violation of the law and we forgive your sins and pardon you.

Mr. Speaker, that is what we are doing here. We are saying you are in violation of the law; no matter how well intended, no matter how many family members you have here, no matter how many employers you have that say they are willing to give you a job, you are in violation of the law.

If we are a nation of laws, we ought to abide by it, respect it, and enforce respect on behalf of those who are citizens and noncitizens.

Mr. MOLLOHAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, first let me make it clear to anyone listening, this motion to instruct says we must insist on the House's position. The House's position is to eliminate section 245(i). It does not talk about coming up with some modification or compromise. It says eliminate, because we did not do anything on it, so that means it would be extinguished.

Secondly, this is not a section that would serve as a magnet, as one of the Members implied earlier in his discussion, to bring in people who are undocumented. An individual must have a legal basis for obtaining lawful permanent residency in order to qualify for section 245(i). If you do not have a legal basis to be in this country, you cannot apply.

This is a Nation of laws, and the law says that you can adjust based on 245(i) if you meet the conditions. What we are fighting is last year we changed the law in midstream on hundreds of thousands of people. That is unfair. Due process requires us to say to folks, if we told you these were the rules of the game, then that is what you must abide by.

We should not change. Now is the time for us to be flexible. Section 245(i) of the Immigration and Naturalization Act provides very needed flexibility for our business community and for very close-knit families. You have to be a spouse, a child or a parent to qualify, or you have to have a job in hand, be-

cause the business has proven to the Department of Labor that no other worker is available.

Mr. Speaker, let us understand what this is. Section 245(i) does not serve as a magnet for illegal immigration, nor does it give some type of benefit to someone who just walks into this country and says "now I want to be able to stay." You have to have a legal basis to be in this country in order to qualify, and then you pay a fine of \$1,000. The fine has been used mostly for the purpose of helping to deter future illegal immigration. It is well worth it to have it. It provides the flexibility. The business community says it is worthwhile. So do families who are on the verge of losing a loved one.

Mr. Speaker, let us support section 245(i) and oppose the Rohrabacher motion to instruct.

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from New York [Mr. GILMAN], the esteemed chairman of the Committee on International Relations.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased to rise in support of the extension of section 245(i) and in opposition to the motion by the gentleman from California [Mr. ROHRABACHER]. The motion to instruct the conferees would end an invaluable immigration procedure, will create new and unnecessary burdens on our families and on our businesses.

Section 245(i) will not change the immigration procedures, but rather will change the location where individuals obtain permanent residence via a green card, either here or abroad. This extension does not allow individuals to jump the line and obtain a residency any faster nor does it allow them to immediately become legal residents. Whether they process their paperwork here or in their home countries, these individuals must wait the same amount of time and are placed on a waiting list on a first come first serve basis.

Extending 245(i) will greatly assist our consular offices abroad to increase their efficiency and focus and provide better services to our American citizens traveling and living abroad. With the Immigration and Naturalization Service processing applications for green cards, consular offices throughout the world can service Americans with overseas emergencies rather than spending the majority of their time with noncitizens. Moreover, opponents believe INS does not provide adequate background checks on individuals and as a result is putting the American public at risk. That is simply not true.

INS processes all individuals through the same checks as the State Department would prior to allowing them to become citizens. Section 245(i) is not any amnesty program for illegal aliens. The program is designed to help people

who are already eligible to obtain legal status in the form of permanent residence in this country. Those who apply for adjustment under section 245(i) must qualify for an immigrant visa based on a family or employment relationship, have a visa number immediately available and be otherwise admissible to our Nation. Section 245(i) does not change the rules or does not make immigration any easier.

It merely changes the location of processing and provides a penalty fee which offsets processing costs and funds detention efforts. Accordingly, I urge my colleagues to join in supporting the extension of 245(i) to help families and businesses around our Nation. This extension is necessary. Without it, consulates abroad will suffer under their increased workload, businesses will be interrupted and families torn apart. Moreover, 245(i) has generated \$200 million in revenues in 1997 and over \$120 million of that went to the detention and removal of criminal aliens.

I urge that we maintain adequate funding for detaining and deporting criminals. Vote "no" on the Rohrabacher motion.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, for those who are a little bit confused by the discussion today, we are talking specifically, in the short-term, about whether or not 1 million people who are in this country currently illegally, whether or not they should have to go back to their native country in order to adjust their status, or whether these people who are here in this country illegally, 62 percent of them who came here illegally in the first place, but ended up taking jobs from American citizens, coming here illegally and taking the food out of the mouths of our own working people, whether those people should have to obey the law when they came in, which was the law, and go home and adjust their status, or whether or not we are going to enforce the law and protect the people of the United States against the malicious, illegal immigration that has been hurting our country and our people.

The other thing is, and let us make very clear, this motion to instruct conferees opens the door to negotiations. It specifically states that we are opposed to a permanent extension of this ongoing amnesty for illegal aliens.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BILBRAY].

(Mr. BILBRAY asked and was given permission to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, we are really talking about fairness and common sense here. Now, last year we passed an Immigration Reform Act that was based on dividing legal immigration and illegal immigration. And about the concept of fairness, that we do not reward those who have broken the law and punish those following the law.



I am listening to the speakers that support 245(i), at least the great majority of them. If you go back in the record, you will find they did not support the Immigration Reform Act last year anyway. It passed by 320 votes, because the American people wanted fairness and common sense put back into our immigration law and stop punishing people for playing by the rules and stop allowing people to buy their way out of illegal status.

There are those that say, well, they will be legal; they are legal anyways, they would qualify. Except they are illegal aliens. If that was not true, then why are they opposing this bill? They would not need this exemption if they were actually legal as stated.

Mr. Speaker, I will include for placement in the RECORD a letter by James Dorcy, a veteran of 30 years of the Justice Department. He worked most of his career with the Immigration and Naturalization Service. His statement, he writes to me, and I would like to put it in the RECORD. He says that "245(i) sets up an irreconcilable conflict of interest within the Immigration and Naturalization Service. The conflict arises with the agency charged with enforcing our laws against illegal immigration actually profit from illegal immigration as it does through section 245(i). With such a conflict of interest, the INS cannot possibly fulfill its duties and obligations to remove aliens ordered removed or even to seriously act to prevent illegal immigration."

This is an immigration agent, somebody with 30 years experience, saying there is a problem here, a major problem.

Mr. Chairman, let us be fair about this. There are people who did not like that vote of 320 votes. Let us not reverse the Immigration Reform Act. This compromise just says we will allow a compromise, but we will not allow a permanent extension of 245(i). I would challenge anyone again to look at the motion. It says we oppose the permanent extension of 245(i).

Mr. Speaker, I include the letter I referred to in the RECORD.

SAN DIEGO, CA,  
October 28, 1997.

Hon. BRIAN BILBRAY,  
Longworth HOB,  
Washington, DC.  
Via Fax: 202-225-2948.

DEAR BRIAN: I am a retired 30-year veteran of the Justice Department. Most of my career was served in the Immigration and Naturalization Service with my last nine years working in the public integrity field in the Office of Professional Responsibility of the INS and later the Inspector General's Office of the Department of Justice.

It is from my experience in fighting internal corruption in our government that I want to call your attention to an extremely serious flaw in Section 245(i) of the Immigration and Nationality Act. Sec. 245(i) sets up an irreconcilable conflict of interest within the Immigration and Naturalization Service. The conflict arises when the agency charged with enforcing our laws against illegal immigration actually profit from illegal immigration as it does through Sec. 245(i). With such

a conflict the INS cannot possibly fulfill its duties and obligations to remove aliens ordered removed or even to seriously act to prevent illegal immigration.

Hundreds of positions within the INS are becoming totally dependent for their existence on the fees collected from aliens. Employees whose livelihoods are dependent on these fees and their coworkers are so compromised that it is virtually impossible for them to objectively fulfill their duties and responsibilities in enforcing and administering law prohibiting illegal immigration.

It is estimated that there are more than 2 million aliens now on the immigrant visa waiting list residing in the United States illegally. There are potentially millions more aliens who now qualify or in the future will qualify for immigrant visas who will attempt to enter the United States illegally. For the INS to take action against such aliens, it would forfeit a potential of several billions of dollars in fees that it can collect from these same aliens through Sec. 245(i). It is absolutely outrageous that Congress would put an agency into such a position of conflict of interest.

This provision of law was scheduled to sunset on September 30th of this year. It has been temporarily extended but is due to expire on November 7th. The Senate has voted to permanently extend the measure in the appropriation bill for Commerce, Justice, State, and Judiciary. On Wednesday, October 29th, Congressman Dana Rohrabacher intends to introduce a motion to instruct conferees on this appropriation bill to oppose adoption of this measure into the final bill. I urge you to support and vote for the motion.

If this law is allowed to continue, we run a terrible risk of institutionalizing corruption that might very well spread throughout our government. Nobody should ever be allowed to buy a pardon for doing wrong, and that is exactly what Sec. 245(i) does. For government employees and the agency they work for to be put in a position of profiting from commerce in such pardons defies all reason and rationality. This form of institutionalized bribery is something one might expect of a Third World country, but it has no place in a great country like ours.

Again, I urge you to support Mr. Rohrabacher's motion to instruct and to do all you can to rid the Immigration and Nationality Act of this corrupting provision.

Sincerely,

JIM DORCY.

Mr. MOLLOHAN. Mr. Speaker, I yield myself 30 seconds to respond to that.

Mr. Speaker, let me just ask, does the gentleman whose motion this is agree that this motion precludes any compromise with the Senate?

Mr. ROHRABACHER. Mr. Speaker, if the gentleman will yield, no, the intent of this motion is not that.

□ 1515

Mr. MOLLOHAN. The motion reads, to be instructed to insist on the House's disagreement with section 111 of the Senate amendment. That means all we can do is disagree. That precludes any compromise on this issue. If that is the gentleman's purpose, then I think the gentleman would oppose his own motion.

Mr. ROHRABACHER. Mr. Speaker, if the gentleman will yield, that is not my purpose. I will be happy to state that for the Record.

Mr. MOLLOHAN. Mr. Speaker, I yield 30 seconds to the chairman, the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, my colleague on the committee is exactly right. The motion, if passed, would insist upon the House position, which is zip, nothing. In order for us to be able to compromise, the gentleman's motion should have been a motion to disagree with the Senate provision, with an amendment, allowing a compromise.

Mr. MOLLOHAN. So if the gentleman wants us to compromise, he should vote against his own motion.

Mr. ROGERS. That is right.

Mr. MOLLOHAN. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Minnesota [Mr. PETERSON].

(Mr. PETERSON of Minnesota asked and was given permission to revise and extend his remarks.)

Mr. PETERSON of Minnesota. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in opposition to this Rohrabacher motion to instruct conferees. Mr. Speaker, this motion is opposed by the U.S. Chamber of Commerce, the National Association of Manufacturers, the AFL-CIO, and all by itself, bringing those organizations together, that should be enough to make Members realize that there is merit in this 245(i) program.

I do not claim to be an expert on this issue, but to me it just seems logical and practical to approach a complex problem within the immigration code in this manner. Once the United States has decided a person is eligible for a green card so they can legally work in this country, it does not make much sense to me to send them all the way back to their home country in order to pick up that status.

What sense does it make to force qualified workers to spend their money and time on travel for what amounts to little more than bureaucratic nonsense? What business do we have disrupting the workplace? The only thing the Rohrabacher motion would seem to accomplish is more paperwork, more cost, and more red tape.

Mr. Speaker, I urge my colleagues to join me in voting "no" on the Rohrabacher motion.

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of the motion to instruct conferees.

The SPEAKER pro tempore (Mr. CAMP). Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I thank the gentlewoman for yielding me 1 minute.

Mr. Speaker, I do not like disagreeing with my good friend, the gentleman from California [Mr. ROHRABACHER], but I do oppose his motion to instruct. I would tell the gentleman, 245(i) does not give anybody an amnesty or give anybody a pass. It is a procedure whereby people who have been in this country and have attempted to regularize their status, and have applied and are on a list, and whose number has come up and a visa is available, it prevents them from being forced to go out of the country and wait either 3 years or 10 years to apply to come back. It keeps the families that have been established together. It is humanitarian.

Yes, we are dealing with illegals who can be deported anytime, but it is a process for people who are ready to become regularized, to become regularized without having to break up the family. It deals with the reality that the people are here. If we abandon 245(i), they are going to stay here. They are not going to have to leave. But that visa that would be used up by one of those applicants will be used by another immigrant, so we add to the totality of immigration, not reduce it.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, when we hear talk about regularization of status, what we are really talking about, and people should understand this, is someone who is in this country illegally. The fact that the AFL-CIO has again abandoned its defense of the rights of the working people of the United States, the citizens of our country and the people who are here legally, does not surprise me but it should surprise people on the other side of the aisle.

However, that big business wants to hire illegal immigrants and give them the jobs does not surprise me. One of the things that is wrong about illegal immigration is that it takes jobs away from the people of the United States. We should not permit that to happen. We should watch out for our own people. Who do we care for? We are supposed to be caring for the citizens of the United States and people who have come here legally and people who have respected our laws.

Second of all, this instruction of conferees clearly, just as in disagreement, the word "disagreement" is right there in the motion, with what the Senate is trying to do, and that is a permanent extension of this amnesty for illegal immigrants.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

(Mr. TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, if Members vote "no" on Rohrabacher they certify the encouragement of illegal immigration. I heard the words of perception, we are always going to get a race card or something here. I oppose

illegal immigration, and I oppose illegal immigrants, black, white, red, yellow, brown, Martian, or an intergalactic time traveler. If you are in America illegally, I oppose you, and I oppose the Congress' laws that allow and encourage it.

Let us look at the law, because most Americans believe Congress needs a brain scan performed by a proctologist here. The first law said, if you are in America illegally for 5 years, Congress is so confused they are going to make you a citizen, and then made you a citizen. Then they said, since we made you a citizen, you have your dear family that misses you, and we will allow your family to come in and we will make them a citizen.

We set a big blinker out there that says, if you want to come to America, jump the fence, because somehow, some way, you are going to get certified and we are going to make you a citizen. Some people came over here in the belly of a slave ship. There are people that stood in line waiting to get in this country. We are now rewarding people who jump the fence. Beam me up.

The Rohrabacher motion says, look, we passed a law. That law made certain requirements. Now, the next year we are going to give a permanent extension and eradicate the law? Why did we have this debate a year ago? Because we could get together over a year ago and put it off for another day, and then we will take care of it with another machination of Congress. It is wrong, Congress. It is wrong. Our borders are wide open. We are destroying the fabric of what our law stands for.

We have had more Mexicans killed on the border than died at Oklahoma City, in that same period of time, trying to get in this country illegally. We have our borders wide open and narcotics running in here, and an epidemic of historic levels of first time use of heroin age 12 to 17.

The American people know it. They are fed up. The American people say, look, we have nothing against any ethnic group or any color of skin; if you are in this country, in the country illegally, get out. Congress should throw you out, not make you a citizen, and not encourage with laws and promote people who jump the fence. That is what we are doing. If Members vote "no" today, they are saying to the Senate, go ahead, go ahead and get over once again.

Both parties should be standing on the floor defending the House position. It is the position of the American people. I oppose illegal immigration. I will not be a part of any ploy that will allow more of it.

Mr. MOLLOHAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to vigorously oppose the

motion to instruct, to make sure that the extension is put in place permanently to save families in this country.

Mr. Speaker, I rise today in opposition to Representative ROHRABACHER's motion to instruct the conferees on the Commerce, State, Justice appropriations bill directing the House conferees to disagree to the permanent extension of section 245(i) that was included in the Senate version of the bill.

In 1994, Congress passed section 245(i) of the Immigration and Nationality Act, a temporary provision that was to have expired on September 30, 1997. This provision has since been extended until November 7, 1997, by the two continuing resolutions. I urge my colleagues to oppose this motion to instruct and to allow section 245(i) to be extended permanently.

Section 245(i) allows certain immigrants who have fallen out of status, but who are now eligible for permanent U.S. residency, to pay a \$1,000 fee and have their paperwork processed while they remain in the United States. Without 245(i) these immigrants would have to return to their native countries for visa processing before once again reentering the United States.

Section 245(i) is only available to those immigrants already on the brink of becoming legal permanent residents—people who are already eligible to become permanent residents. These are people who the INS has already determined should be able to become permanent residents based on their family and employment relationships, that is, they have been sponsored by either a family member who is a legal resident or citizen, or a business willing to employ the applicant.

Despite the charges of many, section 245(i) is not a vehicle for criminals and terrorists to become U.S. citizens. Section 245(i) will benefit:

Persons who unknowingly receive incorrect documents from the INS and by the time this error is recognized, they have fallen out of status;

Corporate executives, managers, and professionals whose status has lapsed due to an oversight by a human resource manager;

The family members of those corporate executives whose status lapses inadvertently through oversight;

A husband who is the sole source of support for his wife and children who are U.S. citizens;

A wife of a legal permanent resident and the mother of children who are U.S. citizens; and

The mother of a 12-year-old girl in my district who is from Honduras; the girl would be abandoned, otherwise.

Section 245(i) will allow businesses to keep valued employees, allows families to stay together, and provides substantial resources to the INS for border enforcement. Section 245(i) is a humanitarian provision of immigration law that allows families to stay together while one member seeks an immigrant visa. Any suspension of section 245(i) could force hundreds of thousands of people to leave their jobs and families in this country. Section 245(i) also provides U.S. businessman who use thousands of skilled foreign workers with needed work force continuity.

My colleagues, I urge you to oppose this motion to instruct and in so doing support the permanent extension of section 245(i), a practical and effective provision that is narrowly

tailored to allow immigrants to obtain legal U.S. residency without leaving the country and leaving their families, their jobs and their hopes for better future behind.

Mr. MOLLOHAN. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentlewoman from New York [Ms. VELÁZQUEZ].

(Ms. VELÁZQUEZ asked and was given permission to revise and extend her remarks.)

Ms. VELÁZQUEZ. Mr. Speaker, I rise in strong opposition to this motion to recommit. The families affected by 245(i) have their backs to the wall. Right now the futures of thousands and thousands of immigrants are at stake.

I want my colleagues who oppose this act of fairness to think about Elvi Blanco when they cast their vote. Her husband, a legal resident, has prostate cancer. Her two children are U.S. citizens. Elvi has been here for 9 years and will qualify for permanent resident status, but she will have to leave her ailing husband and her two children if 245(i) is not extended. Once she returns to El Salvador, it could take up to 2 years for her visa application to be processed.

If some people have their way, families like the Blancos will be split up, lives will be disrupted, and innocent people will suffer. I urge my colleagues to extend a small degree of fairness for immigrants. Vote "no" on the motion to instruct.

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in opposition to the motion to instruct. Section 245(i) of the Immigration and Nationality act permits, as we have heard, certain family and employment-based immigrants, family and employment-based immigrants, to adjust their status to that of permanent residents, some that are not permanent residents because of clerical errors, while remaining in the United States, rather than requiring immigrants to return to their home country to obtain an immigrant visa.

We are not talking about if they become legal or when, but where. Do we kick them away from families until the paperwork is completed? Do we deprive families from being together and receiving support from the family member who is deported?

Section 245(i) was the product of efforts by the Department of State and the Immigration and Naturalization Service to expedite the process of granting immigrant visas, generate revenues, and free U.S. consulates abroad to fulfill their primary functions. Rather than requiring individuals already in the United States to return to their home countries to obtain their immigrant visas, this provision permits immigrants to remain in the United States while adjusting their status, but it imposes a fine on those who choose this option.

The enactment of section 245(i) generates, according to an INS spokeswoman, \$200 million in fines this year alone. This additional revenue for the U.S. Government helps to reduce the State Department's visa processing case load by 30 percent, in addition.

Last year's immigration bill increased the fine to \$1,000 from the previous \$650, and required that at least 80 percent of the funds generated be deposited in a new INS account to be used only for detention. Failure to extend this provision of the law would result in a shortage of resources for both the INS and the State Department. It would create a backlog in application processing, a shortage of funds for detention, and undercut the primary functions of our consulates abroad, which is to advance foreign policy objectives.

I just think that for families, for children, for spouses, for employment, it behooves us to disapprove this motion to instruct.

Mr. ROHRBACHER. Mr. Speaker, for the United States of America, I yield 3½ minutes to the gentleman from Texas, Mr. LAMAR SMITH, chairman of the Subcommittee on Immigration and Claims.

(Mr. SMITH of Texas asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I support the motion to instruct conferees to disagree with the Senate provision that makes permanent an immigration provision known as 245(i). The overriding objective of the Illegal Immigration Reform and Immigrant Responsibility Act, enacted by overwhelming margins in 1996, was to remove incentives for illegal immigration and require illegal aliens to return to their home countries or be removed.

Section 245(i) directly contradicts this goal. Section 245(i) permits illegal aliens who have become eligible for an immigrant visa to adjust to legal immigrant status without having to follow the normal procedure for obtaining an immigrant visa, applying for the visa at a U.S. consulate.

By allowing illegal aliens to bypass the legal process, we reward illegal behavior, and actually encourage aliens to enter or stay in the United States illegally. Section 245(i) rewards those who jump the line, and insults aliens who follow the law and wait for their visa before entering the United States. As a result, law-abiders have to wait to be with their families, while law-breakers do not.

The penalty paid by 245(i) applicants for the right to adjust status, a fee of \$1,000, is minuscule compared to the multi-billion dollar cost imposed on taxpayers as a whole by illegal immigration. While the Federal Government spends hundreds of millions of dollars trying to prevent illegal immigration and to remove illegal aliens on the one

hand, it is encouraging illegal behavior with 245(i) on the other.

□ 1530

That simply does not make any sense. The chief beneficiaries of 245(i) are the relatives of formerly illegal aliens legalized under the amnesty passed in 1986, proving once again that amnesties are among the worst possible options in immigration policy.

The requirement to undergo visa processing in one's own country is not a mere formality. Waiting for a visa outside of the U.S. allows more time, if required, for problem cases. If the visa should be denied, the alien is already outside of the United States and does not need to be deported. In addition, consular officers often are in a better position than INS to identify circumstances particular to a country of origin, such as a criminal background, that warrant closer examination or even denial of the application.

Mr. Speaker, having said all of this, it might be difficult to just end 245(i). There are people in the pipeline who, rightly or wrongly, have relied on its existence and have pending applications. I believe that we can draft a fair and compassionate solution to this situation by allowing persons who have already begun the process to continue to have their 245(i) applications processed, a type of grandfathering for those already in the pipeline.

Mr. Speaker, this approach allows both family and business-sponsored petitioners who have already taken significant steps to get their green cards to continue doing so, but says no to anybody thinking of benefiting from illegal behavior in the future.

As for U.S. employers, a provision could be drafted that allows processing to continue for cases where a short lapse in status has occurred due to processing errors or where more technical problems have occurred, but would not encourage illegal entry or other illegal behavior.

Mr. Speaker, allowing 245(i) to exist permanently would be like Congress passing a second amnesty. It would say, "Even if you ignore or intentionally violate U.S. immigration laws, we will forgive you and reward you with a green card."

Mr. Speaker, I urge my colleagues to vote "yes" on the motion and say "no" to rewarding illegal behavior.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Speaker, the gentleman from Texas, I think, has made an excellent statement. I would ask the gentleman if the conferees came back with a conference report that reflected the gentleman's recognition that we have to deal with those in the country who have relied upon 245(i) in the past, but repealed it for the future, is that something that the gentleman would agree with?

Mr. SMITH of Texas. Mr. Speaker, the gentleman from Kentucky is absolutely correct.

Mr. ROGERS. Mr. Speaker, if the gentleman would continue to yield, the problem is this motion would preclude that. That is why I am opposed to it.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, I hope that no one is swayed by this nonsensical analysis. First of all, we know how much teeth a motion to instruct conferees has. This motion will in no way prevent a compromise.

Mr. Speaker, I would ask the gentleman from Kentucky [Mr. ROGERS] if he really believes that a motion to instruct conferees will prevent a compromise on this issue. Is that the gentleman's position?

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Speaker, I think so. That is the reason. I am opposed for this reason. The gentleman's motion insists upon the House position.

Mr. ROHRABACHER. Mr. Speaker, I reclaim my time. I wish the gentleman would quote the motion at hand rather than quoting what he thinks it should say.

Mr. Speaker, the fact is the motion is very clear. It is very clear that it is the House's disagreement on section 111 of the Senate amendment, that we are simply disagreeing with the Senate's permanent extension of this amnesty program for illegal aliens who are here in this country illegally. We are disagreeing with that permanent extension, for the record. And as we know, I would suggest that my words as the author now letting people know on the record what the purpose of this is, as well as the intent of the language as well as the language itself, does not in any way preclude this body from coming to a compromise on this issue. In fact, all it does is prevent a permanent extension of this amnesty for people who are here illegally. That is all it does, and I am stating that for the record as the legislative intent.

Mr. MOLLOHAN. Mr. Speaker, I yield 15 seconds to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, to respond to the gentleman from California [Mr. ROHRABACHER], my dear friend, I think he and I more or less agree on what should be the final result: No permanent extension. I believe sincerely that the gentleman's motion, if successful, would prevent that. Otherwise, I would support it. My staff tells me that that is the case.

Mr. MOLLOHAN. Mr. Speaker, I thank the distinguished gentleman from Kentucky [Mr. ROGERS], chairman of the subcommittee, for clarifying this very important point.

Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from California [Mr. DOOLEY].

(Mr. DOOLEY of California asked and was given permission to revise and extend his remarks.)

Mr. DOOLEY of California. Mr. Speaker, I rise today to urge my col-

leagues to vote "no" on the Rohrabacher motion.

Mr. Speaker, it is rare that the U.S. Senate casts a 99-to-0 vote, but that is what they did earlier this year when faced with a decision to eject nearly 1 million people from this country. The U.S. Senate said "no." They said no because they knew that nearly 1 million people would be forced to leave their families, their businesses, their jobs, despite having a legal basis for obtaining permanent residency in this country.

Mr. Speaker, these 1 million hard-working immigrants, some of whom reside in my district in California, have a legal basis for retaining residency, yet if we adopt this motion they will be required to leave the country and wait years to be reunited with their families in the United States.

Mr. Speaker, I voted for the immigration bill last year, and there were some important changes that we made in the law to combat some of the problems of illegal immigration. But this provision of the law is unworkable and unfair, and it is inciting fear in many people who have built lives and families and businesses here and who are contributing to our communities and to our economy.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. FORBES].

(Mr. FORBES asked and was given permission to revise and extend his remarks.)

Mr. FORBES. Mr. Speaker, I reluctantly rise in opposition to the gentleman from California [Mr. ROHRABACHER], my good friend, and his motion to instruct conferees.

As a member of the Subcommittee on Commerce, Justice, State, and Judiciary, I would have to say, first and foremost, that 245(i) is an important undertaking in which we restore some compassion to the actions we took last year in immigration reform.

I supported immigration reform as a much-needed device in which we can separate the very big problem of illegal immigration in this country versus the problem of legal immigrants. People who have played by the rules come to this Nation and want to enjoy so much that this Nation has to offer, as many of our ancestors did when they came to this country.

This is about compassion, keeping families together, making sure that employers who want to keep talent in this country are able to do so. This is not about aiding illegal immigration. This is about compassion. This is tightening up on immigration reform.

Mr. Speaker, I rise in opposition, reluctantly, to the motion of the gentleman from California, my friend.

Mr. ROHRABACHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of this motion and urge its adoption.

It is very important for my colleagues to understand what we are

talking about here. This is a vote against a permanent extension. It does not, I repeat, does not preclude legislative actions on how to fairly resolve the issue, as was previously discussed by our colleagues the gentleman from California [Mr. ROHRABACHER] and the gentleman from Texas [Mr. SMITH].

Mr. Speaker, actually what are we doing if we permanently extend it? We are violating all the people that have come here honestly and legally in this country. We are telling all of those people that are sitting in files in our offices back in our districts that they do not have to obey the law, that they have been waiting legally in line for years to come in, but we are going to reward those who break the law.

Mr. Speaker, I also must point out that there are costs involved in this issue. Many of us, including New Jersey, I might say, are very concerned about how this benefit system has been a magnet for many illegal immigrants. In New Jersey alone we spend \$146 million a year to educate children of illegal aliens. The costs go up from there. So we are not only talking about the law, we are also talking about taxpayer costs here.

I must stress that there are extenuating circumstances, I understand it and my colleagues understand it, to the INS paperwork backlogs and the bureaucratic snafus and there are situations where there might be delays for families who have put down roots here. But it would be wrong as a consequence of those snafus to extend this permanently.

What we should say is that as of the day that the bill is signed into law, any immigrant in this country who is trying to address their status might be considered independently and apply that, as the gentleman from California [Mr. ROHRABACHER] and the gentleman from Texas [Mr. SMITH] have already indicated.

I believe this is the fairest way to deal with the situation, and not violate those good people who have legally come to this country and not cause the taxpayers a greater cost on their tax bills.

The argument has been made that by allowing section 245(i) to stay on the books, the INS makes up to \$150 million in revenue received from the \$1,000 fee that aliens pay to obtain legal status. But, this money pales in comparison to the multi-billion dollar cost imposed on taxpayers as a result of the devastating consequences of illegal immigration.

At the same time many of us are concerned that our benefits system acts as a magnet for many illegal immigrants. For example, many children of illegal immigrants receive a free education in U.S. public schools at the expense of American taxpayers, driving up the cost of education and taking resources away from U.S. children. The State of New Jersey alone spends an estimated \$146 million a year to educate about 16,000 children of illegal aliens.

The cost associated with providing Federal benefits to illegal immigrants is astronomical. While as a society, we do not turn people

away from an emergency room or deny food to the hungry. Nor should we. However, I do not believe we should reward illegal immigrants by allowing them to stay.

Nevertheless, I must stress that I understand that there are extenuating circumstances due to INS paperwork backlogs and bureaucratic snafus. And there are situations where, because of these delays, families who have put down roots, would be split up because of an automatic cessation of 245(i).

Because of this, we should create a timetable for the sunseting of 245(i). We should say that as of the day the bill is signed into law, any immigrant in the country, who is trying to adjust their status with the INS and would be considered in violation of the law under an expiration of 245(i), will be allowed to stay and complete the process. But as of that day, any new immigrant to this country will be subject to the new law that does not include the 245(i) loophole.

I believe that this is the fairest way to deal with this situation. I urge my colleagues to oppose permanent extension of section 245(i) and to work in a good faith effort to solve this problem fairly while remaining true to immigration law reform. This motion urges opposition to a permanent extension of 245(i). It does not preclude any discussion on finding the fairest way to phase out this section with the least possible impact on those involved.

I ask my colleagues to vote yes on this motion to instruct.

Mr. MOLLOHAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. ENGEL].

(Mr. ENGEL asked and was given permission to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, I rise in opposition to the motion.

Mr. Speaker, I rise in opposition to the motion offered by my good friend from California, Mr. ROHRABACHER. Although I have the deepest respect for the gentleman from California, I feel strongly that Section 245(i) has been beneficial to our country and should be extended.

Section 245(i) allows an individual who is technically out of status to pay a fee and correct problems with his or her immigration status.

The majority of the people affected by this problem have merely overstayed the terms of their visas while they await permanent residence arising out of valid immigrant petitions.

Those qualified to use section 245(i) are already eligible for visas that will be immediately available to them under U.S. law.

Without section 245(i), these soon-to-be green cardholders are faced with an ironic problem: they are approved to be legal permanent residents, but have to return to their home countries to get their visas and, then, face a 3- to 10-year bar to reentry.

This result undermines the principle of family unification which forms the bedrock of our immigration code by separating spouses and children from their families. It would also adversely affect businesses by forcing important employees to leave the United States to adjust their status.

Several benefits accrue to the United States from permanent codification of this section.

Due to the \$1,000 fee charged to those who utilize section 245(i), the INS expects to gen-

erate up to \$200 million in revenue this fiscal year, alone. These moneys are used to offset the costs of detention and adjudications of illegal immigrants.

Furthermore, by allowing individuals to adjust status here, U.S. consular staff abroad have more time and resources to provide better services to traveling Americans.

I think it is important to note that the Senate has already agreed to extend section 245(i).

Mr. Speaker, I believe the choice is clear: support extension of section 245(i) and oppose the motion to instruct.

Mr. MOLLOHAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, the rules of the House and my friendship for the gentleman from California compel me to restrain myself in characterizing and in dealing with the gentleman's characterizations of this issue. But, Mr. Speaker, all I can say is on so many different issues the gentleman is factually wrong.

Mr. Speaker, 245(i) is not a rolling amnesty. It is not a stagnant amnesty. It is not an amnesty. Mr. Speaker, 245(i) is about where an individual can adjust their status. It has nothing to do with what their status was before; 245(i) has nothing to do with a stay of deportation or a defense against deportation. An individual who is in this country illegally can be deported at any time, and nothing about 245(i) provides a defense or a stay of that deportation.

And 245(i) does not allow any single individual to cut ahead of anyone else. It only applies when their number comes up and, as the gentlewoman from Florida has mentioned, it only involves where they actually make their status adjustment. It allows no one to cut ahead.

The gentleman from California [Mr. ROHRABACHER] keeps saying he is for compromise. The gentleman fought the 1-year bill in 1994. He fought it in 1995. He fought it in 1996. He keeps calling it an amnesty. He keeps saying it is a way to keep out of being deported. He keeps saying it allows people to jump ahead of line against lawful immigrants. Each time the gentleman is wrong. Each year the gentleman is wrong.

Now the gentleman says compromise, but he writes language which insists on the House position, which is no extension. The gentleman could have so easily drafted this motion to instruct to say that he would agree with the Senate with an amendment, and the amendment could have been the grandfather clause, the amendment could have been the compromise he now claims to have.

Mr. Speaker, I suggest that the gentleman from California does not want to see 245(i) extended for 1 day. This is not about a permanent extension. This is about destroying this program and having people believe it is something far different than it really is.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I agree with the gentleman from California [Mr. BERMAN]. We should not be misled by those who want to distort the facts about 245(i) and give inaccurate information; 245(i) does not give special benefits to illegal immigrants. It does not allow anyone to cut in line ahead of any other person. We should not be penalizing those who are on the way to becoming legal immigrants.

□ 1545

Section 245(i) keeps families together. It enables businesses to retain skilled workers. It brings in \$200 million a year to the U.S. Treasury. Half of the projected increase in funding for criminal detention space will come from the \$1,000 per immigrant fees paid. Without this funding, detention space for an estimated 14,000 criminal aliens will not be available. That is an unsettling thought for many communities. Without that funding, inadequate space may mean that criminals that should be held in detention will not be with all the potential calamities that that will lead to.

Even if this possibility is unnecessary, if we simply extend 245(i), do not tie the hands of those negotiators and let us get a settlement on this issue. Reject the Rohrabacher motion.

Mr. MOLLOHAN. Mr. Speaker, I yield one-half minute to the distinguished gentleman from Illinois [Mr. BLAGOJEVICH].

Mr. BLAGOJEVICH. Mr. Speaker, let me reiterate what has been said before about 245(i). Section 245(i) will not help anybody who does not have a legal basis to stay. If you are an immigrant, you do not have a legal basis to stay. If you jump the fence to get into the United States, not all the king's horses nor all the king's men nor 245(i) will help you stay in the United States.

This is about immigrants who have a legal basis to stay. It is about the hardship on families for those who are here who sooner or later are going to get their adjustment in immigration status. The question is, do we disrupt families, do we send them back and keep families from being together and making those leave the United States and go to their host country to await adjustment of status, or do we keep them here and keep families together? That is the question.

The SPEAKER pro tempore (Mr. CAMP). The gentleman from West Virginia [Mr. MOLLOHAN] has 4¼ minutes remaining, and the gentleman from California [Mr. ROHRABACHER] has 2 minutes remaining and has the right to close.

Mr. MOLLOHAN. Mr. Speaker, I yield 1¼ minutes to the distinguished gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Speaker, we hear a lot of rhetoric about what has become the common currency of those who oppose immigrants. I hope that instead today we will listen to some common sense.

The truth about 245(i) is that it is a family unifier. It keeps families together, children with their mothers, dads with their wives. It is a revenue raiser. It will raise more than \$200 million in fiscal year 1997. It promotes effective immigration control, that so many Members speak about, by raising the \$200 million.

It supports American business by helping them retain the skilled and highly qualified workers that they insist upon, that they insist upon. Those are the facts and the figures. But when is it more important to talk about fairness than today?

I think we should quote a man who spoke about fairness. When Martin Luther King, Jr. marched on Washington he said, we refuse to believe that the bank of justice is bankrupt. We refuse to believe that there are insufficient funds in the great vault of opportunity in this Nation.

Mr. Speaker, America's immigrants want only to share in the riches of freedom, to know that the security of justice extends to them also.

Please join me in sharing this freedom, extending this justice and saying yes to families and fiscal responsibility and fairness above all.

Let us keep the families together. Let us keep the moms with their children, mom and dad together raising them in this great Nation of ours. That is what we are based on. Oppose this motion.

Mr. MOLLOHAN. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Missouri, [Mr. GEPHARDT], minority leader.

(Mr. GEPHARDT asked and was given permission to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, I am very proud to stand before you today to send a very strong message that I support the permanent extension of 245(i) and I oppose the Rohrabacher motion. Section 245(i) is a very important provision of our immigration law that affects hundreds of thousands of individuals and families who have come to our country and are eligible for permanent residency.

Section 245(i) is profamily. It is pro-business. It is principles that have always been central to our national immigration policy. Section 245(i) helps hard-working individual Americans and families all across our country who could be needlessly disrupted.

Members have heard others before me on both sides of the aisle express their support for this provision and their opposition to the Rohrabacher motion. Before I leave today, I would like to make Members aware of a story of one person and one family who would be deeply affected.

Rajesh Dua came to this country from India to seek a Ph.D. degree. In 1992, Rajesh received his Ph.D. degree in medicinal chemistry and received several awards for his postdoctoral work in making safer and more effective drugs to fight illnesses like epilepsy.

In 1994, he obtained his green card and in 1995, he married Tomoko Nakagawa, a citizen of Japan who was also studying in the United States on a student visa. Rajesh and Tomoko decided to make the United States their home and they applied for Tomoko's green card in 1995. But because Tomoko was misinformed by a foreign student advisor who told her that she would not need to apply for a student visa while she was waiting for a green card, she is out of status.

Now, listen to Rajesh's own words:

Currently, I am employed as a lead scientist in a biotech company in Seattle, Washington. I am actively involved in creating new agents against cancer, inflammation, and corneal epithelium injury. Tomoko and I are law-abiding, taxpaying citizens who own a home and are contributing to our society with community service.

Tomoko has never worked illegally, has never sought any form of governmental assistance. She is fully covered by health care. She has a retirement account, life insurance, and is the equal owner of our home. We are expecting a baby in November of 1997. To me, it is atrocious to separate a healthy, loving, law-abiding, self-sufficient couple who have realized their American dream. I hope that somebody can understand our pain and frustration and help us obtain some sort of waiver so that people like myself and my wife can stay until she gets a green card.

There is case after case. People are calling our offices, a foreign national Ph.D., a primary care physician, a wife of an executive in valid status, on and on and on.

Mr. Speaker, this is a moral issue. Let us please vote down the Rohrabacher motion and keep this 245(i) in continuity for all of these people who are counting on us to vote the right way today.

Vote "no" on the Rohrabacher motion.

Mr. ROHRABACHER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from California [Mr. ROHRABACHER] is recognized for 2 minutes.

Mr. ROHRABACHER. Mr. Speaker, first let me state that it is clear that on both sides of this issue there are people who love the United States of America, good Americans, and they love their fellow citizens and they love people of the world. So I have no dispersions on anybody's love of country or love of fellow human beings. But 245(i) is also supported by people who are not necessarily good hearted. There are big businessmen who have a big stake in keeping 245(i) in place so that they can hire people who come here illegally or are here illegally instead of hiring American citizens.

Let us make that very clear. When Members see the handout when they come in, they will see the big business organizations supporting 245(i). If they go along with that, they are along with putting our people out of jail and our people are people who have come here legally and U.S. citizens and giving those jobs to people who are here illegally.

Even if she is from India and a biotech person and a wonderful human being, if she was not in this country legally, maybe someone else like an American citizen should have had that job that she had. Even though we sympathize with her, we sympathize with the American people and the law-abiding people who did not break the law more than we do this young lady from India that was just described.

Four hundred thousand people have already used this loophole, this amnesty for illegal immigrants to get to stay in our country, 400,000. Sixty-two percent of them snuck into this country and did not come here legally at all; \$1,000 made up for that, for the fact that they broke our law. With that \$1,000, which will, of course, enable a million more and millions more in the future who are here illegally to normalize that status, we are going to pay for 14,000 spaces at detention centers. That is great. One-fourth of all of the criminals in California jails are illegal aliens. That does not come anywhere near the cost of illegal immigration into our country.

Section 245(i) does what? It undermines the background checks that we do in other countries to prevent criminals from coming here in the first place. Do not tell me we are going to build 14,000 new detention center spaces. That does not come anywhere near the price, plus the heartache of letting criminals come into this country. What it does more than anything else, it undermines respect for our law.

There are people like Charles Mensah from Ghana. Here is Charles Mensah's family. He came here legally. He has been waiting and separated from his family for years. Here they are waiting in Ghana. He is going to be a proud American citizen and he has obeyed the laws. What we are doing is slapping him in the face and saying, if you would have disobeyed our laws, skipped over, come here illegally or snuck your family in here illegally, we would reward you for that.

Section 245(i) breaks down all respect for our law. It jeopardizes our security by taking out the security clearances and the background checks. We need to end this practice, to vote for the motion to instruct conferees that will then permit us a chance to get a compromise on this issue. Support this conference instruction.

Mrs. MALONEY of New York. Mr. Speaker, I stand today in opposition to the motion by Mr. ROHRABACHER.

There are many misconceptions about 245(i) that I would like to clear up. Section 245(i) is only for people who qualify for permanent residency. It does not allow people to break in line, and it does not give them any preference. It simply allows them to stay in the country while their applications are being processed.

It reduces paperwork at consulate offices abroad, and generates \$200 million a year in revenues for INS, an agency that cannot take anymore cuts.



These are not people who are not contributing to our society. These are people with family ties, jobs, and a stake in this country. These are people on their way to becoming legal residents.

If 245(i) is allowed to expire, it will not only be a tragedy for the people who are deported, but also for the families that they leave behind.

Mr. NADLER. Mr. Speaker, I rise to support the extension of section 245(i) of the Immigration and Nationality Act and to oppose this effort to blatantly force immigrants to endure unnecessary hardship.

Section 245(i) enables prospective lawful permanent residents to adjust their status while in the United States. This provision generates, through fees, more than \$150 million in additional annual revenues, reduces the caseload of U.S. consulates overseas, and allows immigrants to remain with their families and businesses as they adjust their status in the United States rather than being forced to process their adjustments abroad.

This provision is designed to encourage immigrants to comply with the law and become legal residents. It punishes people for their infractions and fines them \$1,000, and only then does it allow immigrants to adjust their status and become legal residents. If the provision did not exist, some immigrants may continue to evade the law in order to remain in this country and stay with their families. This provision is a practical and effective tool that has benefited the U.S. Government as well as thousands of now legal immigrants.

If we fail to extend this provision, we will have shifted enormous workloads back to U.S. consulates abroad, sacrificed desperately needed funds, and forced undue hardship on legal immigrants and their families.

We ought to extend section 245(i), and extend it permanently.

Mr. DAVIS of Illinois. Mr. Speaker, I rise in objection to the motion to instruct conferees on H.R. 2267. In this motion is an effort to close the process of Americanization to thousands of qualified human beings who are a valuable part of America's future. Mr. Speaker, 245(i) permits certain family and employment-based immigrants to adjust their status to that of permanent residence while remaining in the United States.

The enactment of Section 245(i) has generated between \$100 and \$200 million annually in additional revenues for the U.S. Government and reduces the State Department's visa processing caseload by an average of 30 percent. In 1996 the immigration law increased the fine from \$650 to \$1,000 and required that at least 80 percent of the funds generated be deposited in a INS account, to be used as the INS wishes. Failure to extend this provision of the law would result in a shortage in resources for both the INS and the State Department and create a backlog in application processing.

Section 245(i) is not an amnesty, it does not allow illegal immigrants to buy their U.S. status. It can only be used by prospective lawful permanent residents and under close and careful scrutiny of Federal authorities. In order to adjust their status under this provision of the law, eligible immigrants must meet the same criteria as they would if their visa applications were processed overseas.

Mr. Speaker and colleagues, I believe in the words of Ms. Emma Lazarus when she wrote:

Give me your tired, your poor,  
Your huddled masses yearning to breathe free,  
The wretched refuse of your teeming shore.  
Send these, the homeless, tempest-tost to me,  
I lift my lamp beside the golden door?

I strongly urge my colleagues to join me in opposition to this motion and believe in the words of Emma Lazarus and I ask her clarion call become a relic of history? No, it is and will remain a viable statement of American values.

Thank you Mr. Speaker and I yield back the balance of my time.

Mr. STENHOLM. Mr. Speaker, I rise today to express my opposition to this motion to recommit, but also to express my hope that a compromise policy can be worked out in conference. I support the goal of this motion expressing support for House position to allow section 245(i) to sunset as required by the Immigration and Nationality Act because I believe that the Senate legislation, which would permanently extend this section 245(i), leaves a loophole which could encourage illegal immigration and allows those who violate our Nation's laws to buy a reprieve.

But, while I agree with the intent of this motion to close a loophole, I believe that in doing so we should make allowances for those folks and their families and employers who will be greatly impacted by the loss of section 245(i). I am convinced that there is middle ground to be found here, and I support looking for a compromise between the House and Senate bills to provide for a temporary extension of this legislation to give us time to study its impact on illegal immigration or an extension which would help those folks who have made a good faith effort to comply with all our Nation's immigration laws and who fall out of legal status. To me, their situations are different from those folks who enter this country illegally.

I urge my colleagues to vote against this motion to instruct conferees but also urge conferees to continue working to find the middle ground on this issue. While we should do everything in our power to encourage compliance with our Nation's immigration laws and to discourage illegal immigration, we must take into account the cases in which exceptions can be made and should be made which will not jeopardize these goals. I support and encourage my colleagues to support a compromise between the extremes of the House and Senate bills which will serve the interests of all American citizens.

#### MEMORANDUM

TO: CWS  
FROM: Julie Turner  
DATE: October 29, 1997

RE the Rohrbacher Motion to Instruct Conferees on Commerce-State-Justice (The permanent extension of section 245(i) of the Immigration Act)

#### BACKGROUND

Section 245(i) of the Immigration and Nationality Act was a temporary provision to allow individuals who are eligible for an immigrant visa because of their employment or family status to adjust their status (from illegal to legal) if they pay a \$1,000 fine to the INS. This provision was set to sunset on September 30th. It was extended by the continuing resolution, and the Senate Commerce-State-Justice appropriation bill extends it permanently.

#### PROS

Extending section 245(i) is important to high tech businesses who rely on foreign

workers (such as Texas Instruments, Monsanto, Dow Chemical, etc).

Extending 245(i) helps keep families together when some members are here legally and others in the family are here illegally or may have originally been here legally then fallen into illegal status by overstaying their visa or otherwise violating immigration laws.

Section 245(i) does not apply to all illegal immigrants. It applies only to those who are prospective lawful citizens who must meet the same eligibility requirements they would face if they were applying from their home country.

The fine generated \$130 million in revenue which the INS used to detain illegal aliens, and eliminating the provision would require these folks to go back to their home countries to be processed thus shifting the burden of doing paperwork including background checks to the State Departments consular offices.

Supporters of extending Section 245(i) include Colin Peterson, Gary Condit, and Grover Norquist.

#### CONS

This provision allows folks who are here illegally (either by entering this country illegally or by falling out of legal status) to simply pay a fine to erase their illegal status.

Section 245(i) is used by people who entered this country illegally but who gained a right to apply for legal status by marrying a legal immigrant or having a child in the U.S.

Supporters of ending Section 245(i) include Lamar Smith, Brian Bilbray, and Dana Rohrbacher.

A LOOPHOLE IN IMMIGRATION LAW  
(By Steven A. Camarota and Jessica Vaughan)

Just a year after Congress overwhelmingly passed a landmark bill aimed at curbing illegal immigration, it is poised to approve a loophole that renders one of the 1996 law's most important reforms meaningless.

The provision in question is section 245(i) of the Immigration and Nationality Act, which allows illegal aliens to undergo visa processing (i.e., receive a green card) in the United States, provided they pay a fine of \$1,000. Until a few years ago, most of these individuals who have been required to apply for a visa in their home country. This controversial provision was scheduled to sunset on Sept. 30. However, at the beginning of the month, after a flurry of media coverage and intense pressure from interest groups, Congress extended it for 23 days and is considering extending it permanently.

By definition, all of the beneficiaries of 245(i) are illegal aliens. Proponents of high immigration have taken pains to describe them as "almost legal" or "on track for a green card." While it is true they have approved petitions from sponsors, giving them permission to apply, this is not the same as being approved for a green card. Their applications have yet to be screened for criminal and medical history, the likelihood that the applicant will become dependent on welfare or other disqualifiers.

The sunset of 245(i) is necessary in order to activate a powerful enforcement tool passed last year. Anyone who has been in the United States illegally for at least five months can now be barred from reentering legally for either three or 10 years, depending on how long they were here illegally. In the past, illegal aliens could apply for permanent residence without penalty, even if they had been violating the law by living in the United States for years. If 245(i) ends as scheduled, any illegal alien who aspires to a green card will have to return home within six months or be subject to the new bar. The



three-year/10-year bar was passed specifically with the sunset of 245(i) in mind. If 245(i) is extended, illegal aliens are shielded from the bar, rendering it meaningless.

The advocates of extending 245(i) argue that because these individuals are already here, there is little point in forcing them to return home for their visa processing. Beyond the disregard for the rule of law that this view represents, it is also troubling because it fails to appreciate the message it sends to those overseas who are considering entering the country illegally.

Illegal aliens are in effect being told that they may come whenever they want and stay illegally for as long as it takes until they get a visa. In fact, according to a recent analysis by the Immigration and Naturalization Service (INS), last year roughly 25 percent of legal immigrants were 245(i) recipients—about 230,000 individuals. What's more, the State Department estimates that perhaps 1 million people on visa waiting lists are residing in the United States illegally. Clearly, such a system encourages illegal immigration.

In addition to contributing to illegal immigration, 245(i) has other problematic aspects. The program creates a potential conflict of interest for the INS. In fiscal year 1996 the INS collected roughly \$200 million in fines from 245(i) recipients. Thus, the INS is in the awkward position of arguing that illegal aliens should be allowed to stay because the agency needs the money their fines generate.

What's more, what does the 245(i) program say to those who are playing by the rules and patiently waiting their turn to come to the United States? This is the immigration policy equivalent of the Redskins ignoring the waiting list for season tickets and allowing anyone who manages to sneak into Jack Kent Cooke Stadium to stay and watch the game from whatever seat they can find, provided they pay a \$50 fine.

There is also the question of which agency can best process visa applications. Recently the blue ribbon commission on Immigration Reform recommended that the State Department take over all visa functions from the INS. State Department personnel abroad know the local languages and customs and are in contact with local authorities. Thus, they are far better equipped to evaluate visa applications than the INS. Moreover, allowing people to apply for visas from within the United States makes any effort to keep out those who are found ineligible, such as criminals, totally ineffective because even if their applications are denied their chances of being deported are slim.

Clearly, any policy that results in more illegal immigration should be carefully considered. There are now about 5 million illegal aliens living in the country, with 400,000 more settling each year. Ample research indicates that the presence of illegal aliens depresses wages for other workers who are forced to compete with them for low-wage jobs. Also, illegal aliens work disproportionately in the underground economy and hold low-wage jobs, and thus typically pay very little in taxes—yet, they sue such costly taxpayer-provided services as education, public hospitals and the criminal justice system.

The upcoming decision on section 245(i) is ultimately about whether Congress places a higher value on the convenience of illegal aliens or on effective and fair immigration enforcement.

— WASHINGTON, DC,

October 23, 1997.

DEAR MEMBER OF CONGRESS: I would like to respond to some of the misinformation that has been disseminated in the context of the debate over extension of Section 245(i) of the Immigration and Nationality Act.

Those who claim that business don't need Section 245(i) are being either intentionally misleading or don't understand immigration law. Allegations that 245(i) only benefits "illegal aliens" are simply not true. Section 245(i) is the sole method for certain individuals to adjust their status here in the United States. Section 245(i) cannot help an "illegal alien" who does not already have a legal basis for obtaining permanent residency.

Section 245(i) does not, under any circumstances, give an individual a substantive right to convert his or her status from illegal to legal. Section 245(i) helps many people who have unintentionally violated their status. For example, a foreign student here on a non-immigrant visa who drops a class one summer to lighten his course load may unwittingly change from a full-time student to a part-time student. If this is the case, this student has violated the terms of his non-immigrant visa. This innocent and unknowing violation of his status makes him ineligible to adjust his status through Section 245(a). His only option is 245(i).

Sunset of this provision will have a highly detrimental impact on U.S. businesses. Our business community hires many foreign nationals with crucial, hard to obtain skills. These individuals are an integral part of operations at companies such as Motorola, Microsoft, Texas Instruments, and Bell Atlantic. These individuals are often sponsored by their employers to adjust their status to permanent residence because of their importance to company operations.

An approved non-immigrant visa petition must be constantly updated, with no room for any margin of error. If a person works for a company that has gone through a merger or an acquisition, or if the person is transferred or has undergone a change of job title, that person's application must be updated and re-filed. Many times this is overlooked, because the individual and the company are not immigration law experts, and are unaware that failure to update the application renders the individual out of status.

Section 245(i) is the only way valued employees can adjust their status if they have, at any time, gone out of status. Extension of Section 245(i) becomes even more crucial to U.S. business when viewed in conjunction with the Illegal Immigrant Reform and Immigrant Responsibility Act of 1996 (IIRAIRA). IIRAIRA bans individuals who have violated their status from entering the United States for 3 or even 10 years. If Section 245(i) is not permanently extended and an employee must leave the country to obtain permanent residence, that employee could be barred from entering the United States for at least 3 years, and possibly 10. Their absence will greatly disrupt U.S. companies, and put them at a distinct disadvantage in a competitive marketplace.

Section 245(i) raises badly needed revenue for the INS. This provision raised over \$200 million in fiscal year 1997. Most of those funds went directly to the INS to combat illegal immigration. It is baffling why those opposed to 245(i) would eliminate a provision that aids in the fight against illegal immigration.

Permanent extension of 245(i) makes sense because it can only be used in individuals who are already eligible for permanent residence, it raises badly needed revenue for the INS to combat illegal immigration, and it gives U.S. companies the flexibility they need to attract and retain crucial, highly-skilled employees. I urge you to support permanent extension of Section 245(i).

Sincerely,

LAURA FOOTE REIFF,  
Partner, Baker & McKenzie.

Ms. PELOSI. Mr. Speaker, I rise in strong opposition to this motion to instruct conferees to block the extension of section 245(i).

According to INS statistics, two-thirds of those using 245(i) are the spouses and children of American citizens and lawful permanent residents. Another portion is used by skilled immigrants sponsored by companies.

Section 245(i) can only be used by prospective lawful permanent residents and under careful scrutiny of Federal authorities. In order to adjust their status, eligible immigrants must meet the same criteria they would if their visa applications were reviewed overseas.

Allowing section 245(i) to expire will force a cruel separation of families. Silas Archila, who lives in my district in San Francisco, is in the process of becoming a U.S. citizen. He and his wife run a child care center. If his wife is not able to adjust her status through section 245(i), she will be forced to leave him to be a single parent of their 4-year-old daughter, a U.S. citizen, and she will be barred for 3 years from immigrating to the United States.

Allowing section 245(i) to expire will force many battered immigrant women to return to countries that cannot protect them—even though, as part of their Violence Against Women Act case, each woman has already proven to the INS that returning to that country and being forced to leave the United States would cause her and her children extreme hardship.

Failure to permanently extend this provision places unnecessary burdens on families and businesses, which will also suffer from the loss of skilled workers. I urge my colleagues to oppose this motion to instruct.

Mr. DEFAZIO. Mr. Speaker, this motion as I understand it would effectively terminate the 245(i) program which permits immigrants who have overstayed their travel student visas to qualify for legal citizenship by remaining in the United States and paying a \$1,000 fee to the INS. I fully understand the concerns of many Oregonians who support extending this program indefinitely. However, I have also heard from some of my constituents who oppose extending this program because it would invite illegal boarder crossings. I do not support any measure that would unravel the progress we have made in enacting tough immigration reform laws passed during the 104th Congress.

I have long been a strong advocate of sensible immigration reform. That is why I voted for the Immigration Reform Act of 1996, which increases the number of border patrol agents and cuts the number of legal immigrants entering the United States. However, this motion places an arbitrary limit on the hundreds of legal immigrants who are currently being processed for residency status.

The 245(i) program applies to immigrants who have overstayed their visa and are eligible for residency status. The program also applies to individuals who are here legally and are seeking citizenship so that they do not have to return to their native country and wait 3 years before they can enter the United States as a legal immigrant. Most applicants of this program are spouses and children of U.S. citizens who would otherwise become eligible for permanent resident status. However, for those who enter illegally, this program should not apply.

I will vote present on this motion because it does not let Congress take a more pragmatic approach. I believe we can balance the concerns of both points of view. This motion does not distinguish between legal and illegal immigrants but 245(i) would apply for both. I believe we should make this important distinction

so that people entering illegally will not be allowed to enter under the same conditions as those who enter legally. This approach does not let immigrants violate current immigration laws but would allow those currently seeking residency status to complete the process.

In the spirit of enacting fair and sensible immigration policy, Congress should adopt a more realistic termination date so that current applicants waiting to join their families here are not forced to leave the U.S. immediately.

Mrs. MINK of Hawaii. Mr. Speaker, I rise in strong opposition to the motion to instruct conferees on Commerce-Justice-State appropriations for fiscal year 1998.

This motion to instruct would throw another roadblock before the conferees, by insisting on House language that allows section 245(i) of the Immigration and Nationality Act to sunset.

A significant proportion of people who use 245(i) never intended to break the law. Rather, they were tripped up by the Immigration and Nationality Act, which is arguably second only to the Tax Code in its sheer complexity. My colleagues who have criticized the Internal Revenue Service for strictly enforcing arcane tax laws will agree that honest mistakes happen. Likewise, these 245(i) applicants are not running from the Immigration and Naturalization Service. They are not fighting the paperwork requirements or griping about the \$1,000 penalty. All they want is to retain the opportunity they now have in the law to set things right and get on with their lives.

Let us be clear: To be eligible to adjust status under section 245(i), these intending immigrants must meet all other immigration requirements: they must not have a criminal record; they must not be terrorists; they cannot belong to the Communist Party; they may not have an illness that presents a public health hazard; and they cannot be at risk of becoming a public charge. They still go through the criminal background and health checks that any other visa applicant does—they simply do it here in the United States.

For this same reason, section 245(i) will not stop deportations. In the first place, it is extremely rare for persons who find themselves in deportation proceedings to have a visa approved, ready and waiting for them, so they could not even apply to adjust status under 245(i). This fiscal year, INS removals skyrocketed to nearly 100,000, despite the fact that 245(i) was in effect. Clearly 245(i) has not interfered with deportations in the slightest.

Foes of 245(i) call it a unique, special concession under immigration law. This is untrue. Every day we allow people to cross our borders on fiancée visas, so they can marry U.S. citizens. Yet, we allow these fiancées to complete their immigrant processing here in the United States.

Furthermore, keeping section 245(i) makes fiscal sense. At least 80 percent of the penalties paid—\$74 million this year alone—pay for detaining criminal aliens whom the INS seeks to deport. The INS budget receives \$100 million per year from 245(i) penalties, but unfortunately this motion to instruct does not say where we should cut to make up the loss of funding.

Meanwhile, the State Department would have to shoulder a greatly increased burden of visa processing. Since fiscal year 1994 when 245(i) was instituted, appropriators have been able to significantly cut spending on U.S. consular staff abroad, because 30 percent of their

immigrant visa traffic was using 245(i) to be processed stateside by INS. This appropriations bill does not restore this lost funding for overseas consular staff, so the Department of State will leave visa applicants subject to ever longer delays in processing and will create a bureaucratic nightmare for thousands of U.S. families and businesses.

The Senate voted overwhelmingly—99 to 0—to adopt its version of the Commerce, Justice, State appropriations bill, which included language to make 245(i) permanent. They had good reason to do so. Not only does 245(i) keep families intact until permanent residency becomes available, it also helps businesses keep some of their most unique, valuable, skilled employees. This skill base keeps hundreds of U.S. firms competitive in the international marketplace.

Scores of America's leading companies support making 245(i) a permanent part of U.S. law, including: AT&T, Apple Computers, Bayer Corp., Digital Equipment Corp., Dow Chemical, Ford Motor Co., Hewlett-Packard, INTEL, Maytag, Merck, Microsoft, Monsanto, Motorola, Procter & Gamble, Sun Microsystems, Texas Instruments, TRW, Westinghouse Electric, and Xerox. Even the U.S. Chamber of Commerce wants 245(i) to continue. I am baffled as to why my colleagues on the other side of the aisle would not listen to these business and industry leaders on this issue.

This debate is not a question of whether these intending immigrants will eventually get a green card. They will get a green card, so long as American relatives or employers sponsor them.

Killing 245(i) will not bring integrity to our immigration system. What it will do is cost the INS revenue for detaining criminal aliens, drop a staggering, unfunded workload onto the Department of State, disrupt family reunification, and interrupt business activity and innovation in our leading industries—just so we can send a message that minor immigration violations will not be tolerated.

Kicking hundreds of thousands of immigrants out of the country for minor violations makes no practical or fiscal sense. It doesn't help America fight illegal immigration. It is merely a way for hard-line immigration opponents to make an example of the very people who are trying to do the right thing.

Mr. WATTS of Oklahoma. Mr. Speaker, today we will have a vote on a provision of the Nation's immigration law referred to as section 245(i). I hope my colleagues will vote against repealing this provision of the law.

Section 245(i) allows individuals who are on the brink of becoming legal permanent residents to adjust their status without having to leave the country. The majority of these individuals are the spouses and children of American citizens.

Without this provision we tell these future citizens they must leave the country and leave their families and wait for perhaps years to be reunited with them in the United States. During that waiting time, they cannot re-enter the country to visit their families for any reason—not to attend a family wedding not to attend a family baptism, not even to attend a family funeral.

Having said that, I understand what my colleague from California is trying to accomplish and I have to believe that somehow we can negotiate and draft legislation that will punish the bad and not the good.

Compassion is a hallmark of the American people; it is part of our character as a nation. Today's vote will be a test of our compassion. I urge my colleagues to oppose repeal of this law.

Mr. ABERCROMBIE. Mr. Speaker, today I rise to speak against the motion to instruct conferees on H.R. 2267, the Departments of Commerce, Justice, State appropriations bill for fiscal year 1998.

I support section 245(i) of the Immigration and Nationality Act. The provision allows certain immigrants to have their papers processed here in order to become permanent residents, rather than requiring them to return to their home country. Section 245(i) is available only to people who are already eligible to become permanent residents, that is, those who are sponsored by close family members or by employers who cannot find eligible U.S. workers, and whose "priority date" is current under existing quotas. The provision does not, as alleged, give illegal immigrants the right to live in the United States. Nor does the provision change the order in which a person's claim is adjudicated. There is one single worldwide line for everyone waiting for their immigrant visa.

People adjusting status under section 245(i) are screened to make sure that they are barred from obtaining a green card on grounds such as criminal offenses, health problems, becoming a public charge, or other thresholds of inadmissibility. In addition, people applying under section 245(i) must submit fingerprints to the Federal Bureau of Investigation to verify that they have no disqualifying criminal history in the United States or in their home country.

If section 245(i) is not extended, both the Immigration and Naturalization [INS] and the State Department will be adversely impacted by a significant shift in workload. INS will lose personnel and money now earmarked for badly needed apprehension and detention efforts. Section 245(i) generated about \$200 million in revenues in fiscal year 1996, of which 80 percent was used for detention. U.S. consulates abroad will be under great strain due to the increased workload without the additional resources that section 245(i) provides. U.S. citizens who seek services from one of these agencies will suffer, not just those individuals who could have used section 245(i).

Section 245(i) allows business to keep valued employees, allows families to stay together, and pays for detention.

I urge my colleagues to vote "no" on the motion to instruct conferees.

Mr. RILEY. Mr. Speaker, I rise today in strong support of this important motion.

In my view, our Nation can only be secure when its borders are secure. In recent years, and Nation's illegal alien population has reached intolerable levels—levels that threaten American jobs and place tremendous burdens on government services. America can no longer withstand the flood of illegal immigration.

Last year, Congress passed landmark legislation that, once and for all, cracked down on illegal immigration to our great Nation. Unfortunately, Mr. Speaker, there is a provision of law known as 245(i), which I believe undermines the intent of the Illegal Immigration Reform Act, sends the wrong message to the world, and seriously threatens our national security. It does so by allowing illegal aliens to

pay the INS \$1,000 to change their status from illegal to legal without appropriate back ground checks.

Who benefits most from 245(i)? People who illegally cross our borders or overstay their visas. In other words, it benefits illegal aliens. Consequently, 245(i) sends a dangerous message to the world. The message. "Don't wait to legally enter the United States. Come illegally and have your status adjusted for only \$1,000."

Mr. Speaker, 245(i) also creates a very real threat to our Nation's national security and to the safety of our citizens. While many aliens who come to this country illegally do so to find a better way of life, others have more sinister reasons. The recent arrest in New York of two possible suicide bombers illustrates how easily criminals and terrorists can evade our immigration controls. Simply put, 245(i) makes it easier for dangerous criminals and terrorists to enter and remain in this country. Worse yet, they can stay without being subjected to criminal background checks in their home countries.

If this is true, then why would the INS support 245(i)? The answer is simple, Mr. Speaker. The INS supports 245(i) to make a buck and to lighten their caseload. For example, INS argues that it needs 245(i) because the provision expedites thousands of green card applications a year. They also say that the provision raises more than \$200 million a year in badly needed funds. Yet, at \$1,000 per person, INS is allowing more than 200,000 additional illegal aliens a year to remain in this country. I do not believe that INS should continue to risk American lives, create additional burdens on government services, and cost American jobs just to make a buck or to lighten their caseload.

Mr. Speaker, 245(i) may work well for illegal aliens and INS, but it does not work well for the American people. It is time we do the right thing and let 245(i) expire. I urge your support of this important motion.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California [Mr. ROHRABACHER].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ROHRABACHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 153, nays 268, answered "present" 1, not voting 10, as follows:

[Roll No. 541]

YEAS—153

Aderholt	Barton	Bliley
Archer	Bass	Blunt
Baker	Bateman	Boehner
Barr	Bereuter	Bono
Barrett (NE)	Bilbray	Boyd
Bartlett	Bilirakis	Brady

Bryant	Hastert
Bunning	Hastings (WA)
Burton	Hayworth
Callahan	Hefley
Calvert	Herger
Campbell	Hill
Canady	Hilleary
Chambliss	Hobson
Christensen	Horn
Coble	Hostettler
Coburn	Hulshof
Collins	Hunter
Combest	Hutchinson
Cooksey	Inglis
Cox	Istook
Cunningham	Johnson, Sam
Deal	Jones
DeLay	Kasich
Dickey	Kingston
Doolittle	Klug
Dreier	Largent
Duncan	Lewis (CA)
Dunn	Lewis (KY)
Ehrlich	Linder
Emerson	LoBiondo
Ensign	Lucas
Everett	Manzullo
Ewing	McCollum
Fawell	McCrery
Foley	McKeon
Fowler	Mica
Franks (NJ)	Miller (FL)
Frelinghuysen	Moran (KS)
Galleghy	Nethercutt
Ganske	Neumann
Gibbons	Ney
Gillmor	Northup
Goode	Norwood
Goodlatte	Packard
Goodling	Parker
Goss	Paxon
Graham	Pease
Greenwood	Peterson (PA)
Gutknecht	Petri
Hansen	Pickering

NAYS—268

Abercrombie	Davis (VA)	Hooley
Ackerman	DeGette	Hoyer
Allen	Delahunt	Hyde
Andrews	DeLauro	Jackson (IL)
Arney	Dellums	Jackson-Lee
Bachus	Deutsch	(TX)
Baessler	Diaz-Balart	Jefferson
Baldacci	Dicks	Jenkins
Ballenger	Dingell	John
Barcia	Dixon	Johnson (CT)
Barrett (WI)	Doggett	Johnson (WI)
Becerra	Dooley	Johnson, E. B.
Bentsen	Doyle	Kanjorski
Berman	Edwards	Kaptur
Berry	Ehlers	Kennedy (MA)
Bishop	Engel	Kennedy (RI)
Blagojevich	English	Kennelly
Blumenauer	Eshoo	Kildee
Boehrlert	Etheridge	Kilpatrick
Bonilla	Evans	Kim
Bonior	Farr	Kind (WI)
Borski	Fattah	King (NY)
Boswell	Fazio	Kleczka
Boucher	Filner	Klink
Brown (CA)	Flake	Knollenberg
Brown (FL)	Foglietta	Kolbe
Brown (OH)	Forbes	Kucinich
Burr	Ford	LaFalce
Buyer	Fox	LaHood
Camp	Frank (MA)	Lampson
Cannon	Frost	Lantos
Cardin	Furse	Latham
Carson	Gejdenson	LaTourette
Castle	Gekas	Lazio
Chabot	Gephardt	Leach
Chenoweth	Gilchrest	Levin
Clay	Gilman	Lewis (GA)
Clayton	Gordon	Lipinski
Clement	Granger	Livingston
Clyburn	Green	Loggren
Condit	Gutierrez	Lowe
Conyers	Hall (OH)	Luther
Cook	Hall (TX)	Maloney (CT)
Costello	Hamilton	Maloney (NY)
Coyne	Harman	Manton
Cramer	Hastings (FL)	Markey
Crane	Hefner	Martinez
Crapo	Hilliard	Mascara
Cummings	Hinchey	Matsui
Danner	Hinojosa	McCarthy (MO)
Davis (FL)	Hoekstra	McCarthy (NY)
Davis (IL)	Holden	McDade

McDermott	Peterson (MN)	Smith, Linda
McGovern	Pickett	Snyder
McHale	Pombo	Souder
McHugh	Pomeroy	Spratt
McInnis	Portman	Stabenow
McIntyre	Poshard	Stark
McKinney	Price (NC)	Stenholm
McNulty	Quinn	Strickland
Meehan	Rahall	Stupak
Meek	Ramstad	Talent
Menendez	Rangel	Tanner
Metcalfe	Redmond	Tauscher
Millender-McDonald	Regula	Thomas
Miller (CA)	Rivers	Thompson
Minge	Rodriguez	Thornberry
Mink	Rogers	Thurman
Moakley	Ros-Lehtinen	Tierney
Mollohan	Rothman	Torres
Moran (VA)	Roybal-Allard	Towns
Morella	Rush	Turner
Murtha	Sabo	Upton
Myrick	Sanchez	Velazquez
Nadler	Sanders	Vento
Neal	Sandlin	Visclosky
Nussle	Sawyer	Walsh
Oberstar	Saxton	Waters
Obey	Schumer	Watt (NC)
Olver	Scott	Watts (OK)
Ortiz	Serrano	Waxman
Owens	Shays	Weller
Oxley	Sherman	Wexler
Pallone	Sisisky	Weygand
Pappas	Skaggs	White
Pascarella	Skelton	Wise
Pastor	Slaughter	Woolsey
Paul	Smith (NJ)	Wynn
Pelosi	Smith, Adam	Yates
		Young (AK)

ANSWERED "PRESENT"—1

DeFazio

NOT VOTING—10

Cubin	McIntosh	Stokes
Gonzalez	Payne	Weldon (FL)
Houghton	Riley	
Kelly	Schiff	

□ 1617

Mr. VISCLOSKEY, Mr. MCINNIS and Ms. DELAURO changed their vote from "yea" to "nay."

Messrs. HEFLEY, SOLOMON, PACKARD and DELAY changed their vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### PERSONAL EXPLANATION

Mr. THOMAS. Mr. Speaker, on roll call No. 541, I cast a "no" vote. I had intended to vote "aye."

#### NUCLEAR WASTE POLICY ACT OF 1997

The SPEAKER pro tempore (Mr. CAMP). The Chair is prepared to declare the House resolved into the Committee of the Whole for consideration of H.R. 1270.

For what purpose does the gentleman from Nevada [Mr. ENSIGN] rise?

UNFUNDED MANDATE POINT OF ORDER

Mr. ENSIGN. Mr. Speaker, I rise to make a point of order under section 425 of the Budget Act on the basis that the provision beginning on page 56, line 15, imposes an unfunded intergovernmental mandate on State governments.

The SPEAKER pro tempore. The gentleman from Nevada makes a point of order that the bill violates section

425(a) of the Congressional Budget Act of 1974.

In accordance with section 426(b)(2) of the Act, the gentleman must specify precise language in the bill on which he predicates his point of order. Having met the threshold burden to identify specific language in the bill, the gentleman from Nevada [Mr. ENSIGN] and a Member opposed, the gentleman from Colorado [Mr. DAN SCHAEFER], each will control 10 minutes of debate on the question of consideration under 426(b)(4).

Pursuant to section 426(b)(3) of the Act, after debate, the Chair will put the question of consideration, to wit: "Will the bill H.R. 1270 be considered?"

The Chair recognizes the gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Speaker, I yield myself such time as I may consume. The Congressional Budget Office states in its cost estimate of H.R. 1270, dated September 25, 1997, that H.R. 1270 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995, PL 104-4. CBO estimates that if this bill were enacted into law, the New York Power Authority, a publicly owned utility, would be required to pay \$180 million in the year 2002. The Unfunded Mandates Reform Act set a threshold of \$50 million for 1996, annually adjusted for inflation. Therefore, CBO estimates that these mandates would impose costs on State governments exceeding the threshold.

Mr. Speaker, I demand a ruling by the Chair that sustains my point of order against H.R. 1270 because it clearly violates the Unfunded Mandates Reform Act that forbade unfunded mandates on State and local governments.

Mr. Speaker, I reserve the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, section 403(a)(3) of H.R. 1270 provides for payment of outstanding onetime fees owed by 13 utilities by the end of the fiscal year 2002. This provision is not in my estimation an unfunded intergovernmental mandate because it relates only to the timing of these payments. The obligation to pay these fees was created 15 years ago by the Nuclear Waste Policy Act of 1982, not by H.R. 1270.

I do have a letter here dated October 27, 1997, from the New York Power Authority, and it simply says:

Pursuant to the Nuclear Waste Policy Act of 1982, the Power Authority entered into a contract with the DOE for the disposal of spent nuclear fuel. We chose the option of paying the one-time disposal fee, and accumulated interest, for pre-1983 fuel at the time we first ship spent nuclear fuel to the DOE facility. Accordingly, we do not view this payment as an unfunded mandate, as long as DOE meets its obligation under H.R. 1270 to provide interim storage and disposal capacity.

Mr. Speaker, I think that a point of order is not inclined to be there.

Mr. Speaker, I yield back the balance of my time.

Mr. ENSIGN. Mr. Speaker, I yield myself such time as I may consume. Just very briefly, the Congressional Budget Office definitely stated that this bill violates the unfunded mandate law that was part of the Contract With America. The gentleman stated that the State of New York wishes to waive this, or at least the public utility. However, the State of Nevada does not wish to waive its unfunded mandate, and that is why we are asking for a vote on this. A lot of people in this House in the last Congress voted for the unfunded mandate law, and we are asking that those people be consistent on their vote.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to section 426(b)(3) of the Congressional Budget Act, the question is: Shall the bill, H.R. 1270, be considered?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ENSIGN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 312, nays 105, not voting 15, as follows:

[Roll No. 542]

YEAS—312

Aderholt	Cannon	Ewing
Allen	Cardin	Farr
Archer	Castle	Fattah
Armey	Chabot	Fawell
Bachus	Chambliss	Fazio
Baker	Chenoweth	Flake
Baldacci	Clayton	Foley
Ballenger	Clement	Forbes
Barcia	Clyburn	Fowler
Barr	Coble	Fox
Barrett (NE)	Collins	Frank (MA)
Barrett (WI)	Combest	Frelinghuysen
Bartlett	Condit	Frost
Barton	Conyers	Galleghy
Bass	Cook	Ganske
Bateman	Costello	Gejdenson
Bentsen	Cox	Gilchrest
Bereuter	Coyne	Gillmor
Berman	Cramer	Gilman
Berry	Crane	Goode
Bilbray	Crapo	Goodlatte
Bilirakis	Cunningham	Goodling
Bishop	Danner	Gordon
Bliley	Davis (FL)	Goss
Blunt	Davis (VA)	Graham
Boehkert	Deal	Granger
Boehner	DeLay	Green
Bonilla	Deutsch	Greenwood
Bonior	Diaz-Balart	Gutknecht
Bono	Dickey	Hall (OH)
Borski	Dicks	Hall (TX)
Boswell	Dingell	Hamilton
Boucher	Dixon	Hastert
Boyd	Dooley	Hastings (WA)
Brady	Doolittle	Hayworth
Brown (CA)	Doyle	Hefley
Brown (FL)	Dreier	Hefner
Brown (OH)	Duncan	Herger
Bunning	Dunn	Hill
Burr	Edwards	Hilleary
Burton	Ehlers	Hilliard
Buyer	Ehrlich	Hobson
Callahan	Emerson	Hoekstra
Calvert	Eshoo	Horn
Camp	Etheridge	Hostettler
Canady	Everett	Hoyer

Hulshof	Morella	Schaffer, Bob
Hunter	Murtha	Scott
Hutchinson	Myrick	Sensenbrenner
Inglis	Neal	Sessions
Istook	Nethercutt	Shadegg
Jenkins	Neumann	Shaw
John	Ney	Shays
Johnson (CT)	Northup	Shimkus
Johnson (WI)	Norwood	Shuster
Johnson, E. B.	Nussle	Sisisky
Johnson, Sam	Oberstar	Skeen
Jones	Obey	Skelton
Kanjorski	Olver	Smith (MI)
Kaptur	Ortiz	Smith (NJ)
Kasich	Oxley	Smith (OR)
Kennelly	Packard	Smith (TX)
Kildee	Pallone	Smith, Linda
Kim	Pappas	Snowbarger
Kind (WI)	Parker	Snyder
King (NY)	Pastor	Solomon
Klecza	Paxon	Spence
Klink	Pease	Spratt
Klug	Peterson (MN)	Stabenow
Knollenberg	Peterson (PA)	Stark
Kolbe	Petri	Stearns
LaHood	Pickering	Stenholm
Largent	Pickett	Strickland
Latham	Pitts	Stump
LaTourette	Pomeroy	Stupak
Lazio	Porter	Sununu
Leach	Portman	Tanner
Levin	Poshard	Tauzin
Lewis (KY)	Price (NC)	Taylor (MS)
Linder	Pryce (OH)	Taylor (NC)
Lipinski	Quinn	Thomas
Livingston	Rahall	Thompson
LoBiondo	Ramstad	Thornberry
Lofgren	Redmond	Thune
Luther	Regula	Thurman
Manton	Riggs	Tiahrt
Manzullo	Riley	Towns
Mascara	Rivers	Trafficant
McCarthy (MO)	Rodriguez	Turner
McCarthy (NY)	Rogan	Upton
McCollum	Rogers	Vento
McCrery	Rohrabacher	Visclosky
McDade	Ros-Lehtinen	Walsh
McHugh	Roukema	Wamp
McInnis	Royce	Watkins
McIntyre	Rush	Weldon (PA)
Menendez	Ryun	Weller
Metcalfe	Sabo	Wexler
Mica	Salmon	White
Miller (FL)	Sandlin	Whitfield
Minge	Sanford	Wicker
Mollohan	Sawyer	Wolf
Moran (KS)	Saxton	Wynn
Moran (VA)	Schaefer, Dan	Young (FL)

NAYS—105

Abercrombie	Hastings (FL)	Mink
Ackerman	Hinchey	Moakley
Andrews	Nadler	Nadler
Baerles	Hoolley	Owens
Becerra	Jackson (IL)	Pascrell
Blagojevich	Jackson-Lee	Paul
Blumenauer	(TX)	Pelosi
Bryant	Jefferson	Pombo
Campbell	Kennedy (MA)	Radanovich
Carson	Kennedy (RI)	Rangel
Christensen	Kilpatrick	Reyes
Clay	Kingston	Roemer
Coburn	Kucinich	Rothman
Cooksey	LaFalce	Roybal-Allard
Cummings	Lampson	Sanchez
Davis (IL)	Lantos	Sanders
DeFazio	Lewis (CA)	Scarborough
DeGette	Lewis (GA)	Schumer
Delahunt	Lowey	Serrano
DeLauro	Lucas	Sherman
Dellums	Maloney (CT)	Skaggs
Doggett	Maloney (NY)	Slaughter
Engel	Markey	Smith, Adam
English	Martinez	Souder
Ensign	Matsui	Talent
Evans	McDermott	Tauscher
Filner	McGovern	Tierney
Foglietta	McHale	Velazquez
Ford	McKeon	Waters
Furse	McKinney	Watt (NC)
Gekas	McNulty	Watts (OK)
Gephardt	Meehan	Waxman
Gibbons	Meek	Weygand
Gutierrez	Millender	Woolsey
Hansen	McDonald	Young (AK)
Harman	Miller (CA)	

## NOT VOTING—15

Cubin	Hyde	Stokes
Franks (NJ)	Kelly	Torres
Gonzalez	McIntosh	Weldon (FL)
Hinojosa	Payne	Wise
Houghton	Schiff	Yates

□ 1646

Messrs. DOGGETT, MEEHAN, SCHUMER, and MILLER of California changed their vote from "yea" to "nay."

Messrs. BROWN of Ohio and FLAKE changed their vote from "nay" to "yea."

So the House agreed to consider H.R. 1270.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table

#### MODIFICATION OF AMENDMENT TO H.R. 1270, NUCLEAR WASTE POLICY ACT OF 1997

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 1270, pursuant to House Resolution 283, it may be in order to consider the amendment numbered 1 in House Report 105-354 in the modified form that I have placed on the desk.

The SPEAKER pro tempore (Mr. CAMP). The Clerk will report the modification.

The Clerk read as follows:

Amendment No. 1, as modified, offered by Mr. DAN SCHAEFER of Colorado:

Page 19, line 2, insert before the period the following: ", using routes that minimize, to the maximum practicable extent and consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas"

Page 19, beginning in line 3, strike "In conjunction with" and insert the following:

"(1) IN GENERAL.—In conjunction with" and add after line 16 on page 19 the following:

"(2) RAIL ROUTES.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall establish procedures for the selection of preferred rail routes for the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage site and the repository site. Such procedures shall be established in consultation with the designated emergency services planning management official for any State or Indian tribe affected by the rail routes selected.

Page 20, line 20, insert after "organizations" the following: ", voluntary emergency response organizations,".

Page 24, line 16, strike "regulations promulgated by the Commission" and insert "existing Federal regulations".

Page 25, beginning on line 1, strike "The" and all that follows through "paragraph (1)" on line 3 and insert "If training standards are required to be promulgated under paragraph (1), such standards".

Page 25, line 5, strike "include the following provisions—" and insert "provide for—".

Page 25, after line 19, insert the following: "The Secretary of Transportation may specify an appropriate combination of knowledge, skills, and prior training to fulfill the minimum number of hours requirements of subparagraphs (A) and (B)."

Page 43, strike lines 17 and all that follows through line 13 on page 44, and insert the following:

#### "SEC. 207. APPLICABILITY.

"Nothing in this Act shall affect the applicability of chapter 51 of title 49, United States Code; part A of subtitle V of title 49, United States Code; part B of subtitle VI of title 49, United States Code; and title 23, United States Code."

Page 81, after line 13, insert the following:

#### "SEC. 510. SEPARABILITY.

"If any provision of this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

In the table of contents—

(1) in the item relating to section 207 amend the heading to read as follows: "Applicability"; and

(2) add at the end of title V the following:

"Sec. 510. Separability.

Page 21, line 6, redesignate subparagraph (B) as subparagraph (C) and insert after line 5 the following:

"(B) EMERGENCY RESPONDER TRAINING STANDARDS.—The training standards for persons responsible for responding to emergency situations occurring during the removal and transportation of spent nuclear and high level radioactive waste shall, in accordance with existing regulations, ensure their ability to protect nearby persons, property, or the environment from the effects of accidents involving spent nuclear fuel and high-level radioactive waste.

Mr. DAN SCHAEFER of Colorado (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The SPEAKER pro tempore. Without objection, the modification is agreed to.

There was no objection.

#### THE NUCLEAR WASTE POLICY ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 283 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1270.

□ 1648

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1270) to amend the Nuclear Waste Policy Act of 1982, with Mr. MCINNIS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia [Mr. BLILEY] and the gentleman from Texas [Mr. HALL] each will control 30 minutes. The gentleman from Alaska [Mr. YOUNG] and the gentleman from Massachusetts [Mr. MARKEY] each will control 10 minutes.

The Chair understands that the gentleman from Colorado, [Mr. DAN

SCHAEFER] will be recognized for the time of the gentleman from Virginia, [Mr. BLILEY], and the Chair recognizes the gentleman from Colorado, [Mr. DAN SCHAEFER].

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield myself such time as I may consume.

(Mr. DAN SCHAEFER of Colorado asked and was given permission to revise and extend his remarks.)

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, today the House of Representatives is considering H.R. 1270, legislation to repeal the Nuclear Waste Policy Act of 1982 and replace it with the Nuclear Waste Policy Act of 1997. Mr. Chairman, H.R. 1270 was approved by the Committee on Commerce by a wide margin of 43 to 3, enjoys broad bipartisan support, and was carefully crafted over a 2½-year period.

H.R. 1270 achieves the following four principal goals: number one, the acceptance of nuclear waste at an interim storage facility in the year 2002; number two, it continues progress toward permanent disposal of nuclear waste at a geological repository; number three, it improves safety by consolidating storage of nuclear waste; and, four, it enhances consumer protection by ending the diversion of consumers' fees for other Federal programs.

Mr. Chairman, last year the U.S. Court of Appeals for the District of Columbia Circuit held in the Indiana Michigan Power Company that DOE has a legal obligation to begin acceptance of nuclear waste in January of 1998. It is impossible for DOE to fulfill its legal duty to begin acceptance in 1998, and under current programs that the DOE has, it will not be able to begin acceptance until the year 2010.

H.R. 1270 enables DOE to fulfill its legal obligation to begin acceptance at an interim storage facility in 2002, an earlier date that permits time for the NRC for licensing of this particular facility.

The overriding goal of the nuclear waste program since 1983 has been providing for permanent disposal of nuclear waste in a geological repository. That goal is strengthened by H.R. 1270. Congress has always sought to avoid a competition for funding between an interim storage facility and a repository. H.R. 1270 avoids such competition by providing ample funds to pursue both programs. According to DOE, the funding provisions of H.R. 1270 provide sufficient funds to provide for interim storage while maintaining the progress towards development of a permanent repository.

H.R. 1270 has protections designed to assure the interim storage facility cannot become a de facto permanent facility. There are statutory limits to the nuclear waste that can be stored in the interim facility, 40,000 metric tons, a small portion of the nuclear waste that will be generated, which is 115,000 metric tons.

The commitment to the repository in H.R. 1270 is reflected in the funding

mechanism of the bill. H.R. 1270 provides for a fee that must average 1 mill, one-tenth of a cent, between 1999 and the year 2010, but can fluctuate to match program needs. Without this flexibility in the fee mechanism, funding for the repository may not be assured.

Maintaining the commitment to the repository is critical to the States that have significant amounts of defense nuclear waste at DOE nuclear facilities: Washington State, Idaho, South Carolina. Most of these defense wastes cannot be accommodated at an interim storage facility. They will have to be deposited in a repository of this nature. Continued progress on a repository is crucial for these particular States.

During the hearings held by the Subcommittee on Energy and Power of the Committee on Commerce on nuclear waste legislation, the Nuclear Regulatory Commission testified that on-site storage of nuclear waste is safe, but centralized storage of nuclear waste offers even higher safety margins than what we have today.

Right now, nuclear waste is spread all over the country in scores of sites in 35 States. Consolidating nuclear waste at one site will improve safety and provide for the enhanced protection and the public health and the public safety.

Since enactment of the Nuclear Waste Policy Act of 1982, consumers have contributed \$13 billion, \$13 billion, Mr. Chairman, towards the nuclear waste program. Only a portion of these sums, \$6 billion, has been spent on the program itself. The rest has been effectively diverted to other Federal programs. This diversion has gotten so bad in recent years that only 15 cents, 15 cents of every dollar paid by consumers, has been spent on the nuclear waste program.

We need to protect the consumers and stop the diversion of nuclear waste fees to fund other Federal programs. H.R. 1270 protects the consumers in two ways: changing the fee to an annually adjusted fee that matches the appropriations level, and thereby eliminating the diversion of funds to other programs; and capping the fee at 1 mill, one-tenth of a cent per kilowatt hour. Under H.R. 1270, every penny of the fees paid by the consumers in the future will be spent on this particular program.

H.R. 1270 is consistent with the budget laws and does not violate pay-go requirements. It was not a simple matter to resolve the budgetary concerns related to the bill reported by the Committee on Commerce in 1995. The committee went through a great deal of effort to resolve budgetary concerns for one reason, a conviction that the diversion of fees paid by the consumers must be halted. The current fee is considered a mandatory receipt, and deleting this fee was deemed to reduce those receipts. The fee in H.R. 1270, since it is annually adjusted to match appropri-

tion levels, is considered a discretionary fee.

The committee developed an offset for the loss of the mandatory receipts resulting from the switch from the flat mill fee established by the 1982 Act to the annually adjusted fee in H.R. 1270. The offset the committee adopted was requiring the payment of one-time fees owed by 13 utilities by the end of fiscal year 2002. These fees were required to be paid by the 1982 Act upon acceptance of nuclear spent fuel generated by these individual utilities. Requiring the payment of outstanding one-time fees in fiscal year 2002 was necessary to assure that H.R. 1270 does not violate budgetary pay-go limitations. That was the only reason the committee adopted this provision.

Opponents of H.R. 1270 have argued that the bill imposes tremendous burdens on taxpayers. Nothing could be further from the truth. The nuclear waste program has always been funded by consumers through fees on electric generation by nuclear power plants. Consumers will continue to fund the program through fees provided by H.R. 1270. The only cost, the only cost under H.R. 1270, is the cost of disposing of the defense waste. It is wholly appropriate that taxpayers fund this cost, since the benefits of our defense activities accrue to all taxpayers, not to just the consumers of utilities with nuclear power plants.

□ 1700

I understand the opponents of H.R. 1270 also assert that this bill preempts State and local transportation and safety requirements. That assertion also is completely false.

State and local governments are preempted from establishing inconsistent transportation safety requirements by existing Federal transportation laws, not in H.R. 1270.

Mr. Chairman, I would urge my colleagues to certainly support H.R. 1270.

Mr. Chairman, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today as cosponsor of H.R. 1270, the Nuclear Waste Act of 1997, a bipartisan bill that represents a lot of hard work on the part of members of the Committee on Commerce and the Subcommittee on Energy and Power to find what the gentleman from Colorado, Mr. DAN SCHAEFER, has deemed "a temporary solution to a critical and immediate problem," and that is the storage of our nation's spent nuclear fuel.

Mr. Chairman, I think it is certainly necessary. For one reason it is outrageous that the Department of Energy has failed in its quest, failed in the direction that this Congress has given them. This legislation is necessary because of that failure to find a permanent repository by the year 1998.

So far DOE has fallen behind on its responsibility in that it predicts a dis-

posal facility will not be operational until the fiscal year 2010, which is absolutely unacceptable. That is at the earliest, they say. In the meantime, ratepayers have paid in billions of dollars to the Nuclear Waste Fund, with only about 15 cents on the dollar actually used for radioactive waste disposal programs.

This is unacceptable and, frankly, it is unconscionable. If my colleagues would just be logical about it, for a lot of years nuclear power has been a source of electricity supply across our country and we have known for many years that we have to find a long-term solution to the storage of nuclear waste that is the by-product of that industry. If they are going to use it, it has got to be stored. That is as logical as it can be.

DOE had a commitment to construct a permanent repository by 1998, but they have not lived up to that commitment, and that is why we are here today. The lack of a storage facility is placing very unrealistic demands on our Nation's nuclear power plants. Failure to act now could lead to the premature closing of some of our nuclear power plants and force additional costs upon them for on-site storage.

It is talk about nuclear as in energy, and there are some here who are just opposed to nuclear energy, period. The gentleman from Ohio is honest about that, and that is part of his speech and time that he will be using. But we see people out by nuclear plants that have signs that say "No Nukes." I go to schools and I say, "Children, how many of you are for nuclear energy?" And they all hold up their hands that they are opposed to it. But when they hear the hard cold facts that we sent Japan searching for energy, in World War II looking for energy, and that there is no question that President Bush sent 400,000 of our kids over to that desert looking for energy, and when we point out to schoolchildren that, yes, energy or lack of energy causes wars and explain that to them, then we tell them if we solve the energy problem, which this is a thrust in that direction, that those signs that they hold up saying "No Nukes" can say "No Wars." Then when asked the question again, the hands do not go up because it is properly explained to them.

I think during the year, DOE has made some progress on the excavation of the main tunnel at the Yucca Mountain facility, but we have got to encourage them to accelerate construction of the permanent facility. In the meantime we cannot afford to do nothing. We cannot afford to wait another 12 years. It is important that we act now.

This Congress just voted a few moments ago overwhelmingly not to let any amendment sent up, frivolous or otherwise, or sincere amendment or whatever, block the progress of this bill.

Mr. Chairman, I thank my colleagues, the gentleman from Virginia,

Mr. BLILEY, and the gentleman from Michigan, Mr. DINGELL, ranking member, the gentleman from Colorado, Mr. DAN SCHAEFER, the gentleman from Michigan, Mr. UPTON, all of the other members for their hard work, even some of those who were opposed to the bill who have sent up good suggestions, some of them that we have taken and all of them that we considered.

But this thing started back in 1982. There was no Nuclear Policy Act. It said simply: "Ratepayers, you give us the money and we will pick up your spent fuel." And we did that. They have given us \$13 billion. We have only spent \$6 billion. In 1987, Yucca Mountain was designated as the only place for the DOE to study for permanent repository and a vote in the House and Senate took place.

I think in the appropriations bill in 1987, it may have been on December 21, 1987, the vote was for the fiscal 1988 budget reconciliation conference report, H.R. 3545. That vote then was 237 to 181. And it is unfortunate that no one wants this area. It is not politically selected by anyone.

Mr. Chairman, I am sorry for the gentleman from Nevada [Mr. ENSIGN]. The gentleman is doing what he ought to do. The gentleman is representing his district, representing his State. But this was considered at one time to be in Deaf Smith County, Texas. Had it been selected, I would understand that we would have to have an act, but I would probably be in the same position that these two gentlemen are in who represent the State of Nevada.

But the hard cold fact is that the Nevada test site has been dedicated to nuclear uses for over 50 years. We have had 975 nuclear explosions there in the desert. They have studied Deaf Smith County; they turned that back. Since then, we have studied Yucca Mountain for \$6 billion dollars worth and still the repository will not be ready until 2010 or 2015. I say start it in 1998. That is what this bill says. "Light up or light out."

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, as George Gershwin might say, "It's very clear, plutonium is here to stay. Not for a year, but forever and a day. The Rockies may crumble, Yucca may tumble, they're only made of clay. But plutonium is here to stay."

That is the problem, Mr. Chairman. It is here to stay; 10,000 years, 20,000 years. Nobody knows how long. This bill presumes that it is very safe. "Do not worry about it: We are picking Nevada," says the Congress. "We do not have any geologic or scientific evidence that supports our decision, but we have decided that we are getting it off of all the sites that it has been generated at and we are moving it to Nevada."

Mr. Chairman, in this legislation, we are going to suspend a lot of protec-

tions which we give to Americans. We are going to decide here today that each American could be exposed to 100 millirems of radiation. Now, in Sweden the standard is 10. In Switzerland it is 10. In Canada it is 1. Even at the New Mexico waste isolation pilot project, it is 15 millirems. But here, we are going to say that for every 286 persons exposed, that one of them will contract a cancer. We are going to decide that today. We are going to establish a level that does not allow the EPA to set these standards. We will decide them. That is what this bill says, and that is wrong.

What else does the bill do? It says that it will be transported through 40 States of the Union in trucks and railroad cars, totally indemnifying the trucking and railroad firms from any liability, even if they are engaged in willful misconduct, gross negligence. They are not liable.

Now what disincentive as a result exists for these contractors to ensure that they have not hired drivers who drink excessively in the evening, take antidepressants and then jump behind the wheel and drive 100 miles an hour through tunnels in highly populated population areas in our country? None. This bill allows that to happen. They are not liable.

And who pays if there is an accident? Believe it or not, it is the ratepayers who will pick up the tab, the very people who may have been victimized by an accident created in their neighborhoods.

And fourth, we have the Holy Roman Empire provision on NEPA. They used to say that the Holy Roman Empire was an oxymoron. It was not really holy, Roman, or an empire. Well, that is what we have got here with the Environmental Impact Statement that is built into this bill. It really does not evaluate the environment, it does not measure the impact it is going to have on a community, and it is not much of a statement. But at least we have got the words in there.

Then we have the "interim storage" oxymoron. We have put a cap on how much money we are going to raise from now on from nuclear utilities for permanent and interim storage. We are going to spend most of it on the interim storage. We are going to build something that is above ground and interim, and we are going to pretend that we are going to come back and still have a permanent waste repository built in this country.

A vote for this bill is a vote to kill a permanent repository in the United States permanently. This is an interim storage bill to just get it off the books from the utility executives of today, and forget about any permanent solution.

Mr. Chairman, I hope that the Members who are listening to this debate vote for the amendments to protect the American public.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 5½ minutes to

the gentleman from Louisiana [Mr. COOKSEY].

Mr. COOKSEY. Mr. Chairman, I would like to engage the gentleman from Colorado, Mr. DAN SCHAEFER, in a colloquy.

Mr. Chairman, the ratepayers of Louisiana have paid more than \$134 million into the Nuclear Waste Fund only to see that money used for purposes other than those specified by the law which mandated the collections. For that reason, I would like to engage in a colloquy with the distinguished floor manager to propound a few questions on the bill before us, which I have co-sponsored.

As I understand the situation, one of the foremost improvements of the bill over current law are provisions which would ensure that monies collected from ratepayers will be used for the purposes for which they were intended under the Nuclear Waste Policy Act rather than being captured and used for other purposes because of discretionary spending limits imposed after the Nuclear Waste Policy Act was enacted.

Mr. Chairman, I ask the gentleman, is this a fair representation?

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, will the gentleman yield?

Mr. COOKSEY. I yield to the gentleman from Colorado.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, the gentleman is certainly correct. As is more fully explained in the committee's report, the basic inequity arises from the fact that the current 1 mill fee assessed against nuclear generated electricity is treated as a mandatory receipt to the Federal Government, and all programmatic expenses are treated as discretionary spending.

Now, as a result, spending for the waste program from the Nuclear Waste Fund is thus counted against various discretionary spending caps enacted after 1982 as a means of controlling overall Federal spending. As a result, while nearly \$12 billion has been generated in fees and interest, only a little over \$4.8 billion has been spent on the program.

Mr. COOKSEY. Mr. Chairman, reclaiming my time, I further understand that any effort, other than the one proposed in the bill, to create a situation where revenues and expenditures stand on the same side of the ledger, allowing annual revenues to offset annual outlays, would result in a technical violation of the scoring rules of the Congressional Budget Office and the Committee on the Budget.

The committee, therefore, had to find an accounting offset and the source of funds chosen for the offset was the one-time user fees owed by certain utilities under contracts entered into with the Department of Energy after enactment of the original 1982 statute. Is this an accurate presentation?

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, if the gentleman would



continue to yield, I would say to the gentleman, that is accurate. For example, under the solution to this problem chosen by the committee in the last Congress, the termination of the current mandatory 1 mill fee and the institution in its stead of a discretionary user fee, we were informed that we had violated the budget rules because the Treasury would no longer be receiving these revenues on the mandatory receipts side of the budget, even though the Treasury would be receiving user fee revenues on the discretionary side of the budget as an offset for appropriations to fund the waste program.

Further, as the committee report indicates, 13 utilities availed themselves on the contractual option offered by the Department of Energy to pay fees assessed against spent nuclear fuel they generated prior to the effective date of the 1982 act.

□ 1715

By requiring these fees to be paid prior to the expiration of fiscal year 2002, the committee was able to generate a \$2.7 billion revenue offset which, as the committee report indicates, was necessary in order to assure that the legislation does not violate the budgetary pay-as-you-go limitations.

Our understanding was confirmed in the letter of September 25, 1997, by CBO Director O'Neill to the gentleman from Virginia [Mr. BLILEY] as well as the September 18, 1997, letter from the gentleman from Ohio [Mr. KASICH], chairman of the Committee on the Budget, to the gentleman from Virginia [Mr. BLILEY].

Mr. COOKSEY. Is it true, Mr. Chairman, that such one-time fee payments will be credited to the balance of the Nuclear Waste Fund and that the program will largely rely on annual user fees to fund both continuing progress on the repository at Yucca Mountain and the interim self-storage facility mandated by the bill?

Mr. DAN SCHAEFER of Colorado. My colleague again is correct, Mr. Chairman. As the committee report states, it appears that the annual user fee that averages one mill per kilowatt hour will be sufficient to continue development of the repository and acceptance of spent nuclear fuel and high level radioactive waste at the interim storage facility. Information supplied to the committee by DOE indicates that in order to achieve these goals, a fee of one mill per kilowatt hour will be sufficient to maintain progress on the repository and develop an interim storage facility.

Mr. COOKSEY. Mr. Chairman, is it not the case that contracts entered into between utilities and the Department of Energy prior to the effective date of this act will continue in force unless both parties agree to a modification?

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, that is correct. Section 2 of H.R. 1270 provides that such con-

tracts shall continue in effect under this act in accordance with their terms except to the extent that the contracts may have been modified by the parties to that contract.

Mr. COOKSEY. Mr. Chairman, I thank the gentleman.

Mr. HALL of Texas. Mr. Chairman, I yield 3 minutes and 30 seconds to the gentleman from Michigan [Mr. DINGELL], former long-time chairman of the Committee on Energy and Commerce and present ranking member of the Committee on Commerce.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, there is a funny thing about nuclear waste and other kinds of waste, too. Everybody wants somebody to pick it up and they never want them to put it down anywhere.

We have a massive problem in this Nation. How are we going to resolve the problem we have with regard to high level and low level nuclear waste? The answer is, we have got to begin somewhere.

The bill before us is a good bill. Every Member of Congress who has dealt with or thought about this issue has been frustrated about the fact that we have not dealt with the problem. Money collected for the purpose of dealing with the question of storage has been dissipated by the budgeteers and by the Committee on Appropriations. This bill addresses that problem. It solves it.

The bill goes further. The bill addresses the problem of where we are going to set up an interim storage place. That is important. I will assure my colleagues that it is interim because, in the process of considering this legislation, we have seen to it that there is not enough money for them to store enough of this waste that it can become a permanent storage facility. I am aware of the concerns of my colleagues on that matter because they are important.

The bill does not impose any new protections on the carriers or the transporters of nuclear waste that have not been a part of the protection of every nuclear contractor since the beginning of the program for nuclear power in this country, same as under Price-Anderson.

I assure my colleagues that the Department of Transportation and the Department of Energy will see to it that this is moved safely. If Members look at the casks and the carriers and the rules, they will find that they afford an abundance of protections. I would think that probably the worst thing that would happen, if we have some kind of an accident involving one of these vehicles, we would find that they had cracked the pavement because that is how strongly constructed the carriage devices and how strongly constructed the containers are.

We have to resolve the problem. The bill provides reasonable environmental

protections for everybody who is concerned, the best that could be crafted. But it resolves an issue which is a matter of great concern to the Nation.

I am troubled that my friends from Nevada are not pleased with this legislation. The hard fact of the matter is, the studies that have gone on so far have come up with about the best place. That is an area of which we have had not only extensive studies of geology and safety and terrain stability and water, but also an area in which there have been extensive use of nuclear explosives, I think unwisely, but nonetheless have done so. And the result will be that the best possible protection for everybody can be done and will be done under this legislation.

I want to commend my dear friend, the ranking minority member, the gentleman from Texas [Mr. HALL], the distinguished gentleman from New York [Mr. TOWNS], the chairman of the subcommittee, the gentleman from Colorado [Mr. DAN SCHAEFER], the gentleman from Idaho [Mr. CRAPO], the gentleman from Illinois [Mr. HASTERT], the gentleman from Michigan [Mr. UPTON] and, of course, the chairman of the full committee for the work which they have done to bring us to the point where we are today. This is a good bill. It is a step along a long and difficult route to resolve an important question which is troubling everybody and which is causing huge problems for the Nation.

I urge my colleagues to support the legislation.

Mr. Chairman, I have long been frustrated with the pace of DOE's efforts, and the lack of any meaningful progress, toward opening a permanent repository for nuclear waste. I have spoken previously about my keen disappointment that there appears to be no way to recover the billions—literally billions—of dollars in ratepayer contributions to the Nuclear Waste Fund which the Budget Committee has siphoned off and used for wholly unrelated purposes.

I regret to say that, despite our best efforts here today, this Congress is not in a position to remedy all of the problems afflicting DOE's waste program. Nor can we guarantee that the repository will open on a date certain.

However, the bill before us is a marked improvement over current law. It is a bipartisan bill that passed the committee by a vote of 43 to 3. At this time let me thank Chairman TOM BLILEY for his hard work on this important issue. I also want to congratulate my colleagues—Chairman SCHAEFER, Ranking Member HALL, and Congressmen TOWNS, CRAPO, HASTERT, and UPTON—for their contribution in working through some of the hard questions and introducing H.R. 1270. This bill incorporates the following important provisions:

First, and foremost, the bill reforms the funding basis for the waste program, and ensures that every dollar contributed by ratepayers will be spent on the nuclear waste program—and nothing else. By transforming utility payments for nuclear waste into a user fee, the substitute puts an end to the diversion of these funds and ensures they will be applied exclusively for their intended purpose—the Yucca Mountain project.

Second, the substitute authorizes an appropriate interim storage facility. This facility will open in 2002, and will accept waste at nearly twice the rate DOE projects under its acceptance schedule. This is the least we can do, given the tardiness of the current program.

At the same time, however, it is essential that interim storage not become a de facto substitute for the permanent repository. In recognition of this, the substitute limits the capacity of the interim storage facility to about half of what the repository will accept—so that a healthy constituency remains for completing work on a permanent disposal facility.

Third, we cannot escape the fact that building two facilities simultaneously costs more than building one. If we direct DOE to build interim storage at the same time it is building the repository, we also must ensure adequate funding for both facilities.

Therefore, the bill permits an increase in the annual 1 mill per kilowatt-hour fee during peak construction years. However, ratepayers will pay no more in the long run because any such increase must be offset by lower fees in other years—so that the average annual fee over the next 12 years is no more than 1 mill. In order to provide additional assurance to ratepayers, utilities, State regulators that annual use fees will not spike dramatically, the bill imposes a 1.5 mill annual cap.

In summary, this bipartisan bill will make a number of important changes in the nuclear waste program that will protect our consumers and our environment. I urge its passage.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Chairman, I appreciate the opportunity to speak in support of this important piece of legislation, the Nuclear Waste Policy Act of 1997. This is a very important issue to Idaho because, as I think most people now understand, Idaho has been the recipient of a significant amount of the spent nuclear fuel in the country to be stored on a supposedly temporary basis, but the progress toward permanent storage needs to be resolved and the interim storage facility issue needs to be resolved.

Idaho currently has 260 metric tons of spent nuclear fuel and 10,000 cubic meters of high level nuclear waste, and we must proceed with resolving this issue to protect the geologic areas of Idaho that are now jeopardized by the permanent, apparently permanent storage of the waste in those locations.

The point I would like to make is that Idaho is not unique here. Perhaps it is Idaho that has had a significantly larger amount of the spent nuclear fuel shipped to it, even though it has not generated any. But this bill is very much proenvironment because it removes nuclear spent fuel and high level nuclear waste from over 100 sites to only one remote site.

My friend from Massachusetts said that, in his argument against this bill, that we will see spent nuclear fuel transported through 40 different States. I think a better way to point it out is that we will see spent nuclear fuel transported out of about 40 States and out of over 100 sites to only one re-

mote site where the location has been designed to have the least amount of environmental impact.

With regard to that transportation issue, the regulatory regime for radioactive material transport has worked well in this country. As the gentleman from Michigan [Mr. DINGELL] just said, it will be transported safely.

Over the past 30 years there were 2,500 shipments of spent nuclear fuel in the United States. Since 1957, there have been 667 shipments of Navy spent fuel over 1 million miles. And in the last 22 years, the Department of Energy has transported nuclear weapons and special materials nearly 100 million miles, and all of that has been done without radioactive release.

There has been an attack saying that there will be insufficient environmental analysis. Again, the true facts are that H.R. 1270 requires an environmental impact statement before every major Federal action in the Nuclear Waste Program. It is true that it says that alternate sites are not to be evaluated, but that is because this Congress is designating the evaluating site. And those who would say that a full environmental impact analysis is not being made are simply mischaracterizing the terms and provisions of this legislation.

Mr. Chairman, this legislation is critical to this country. Last year, the U.S. Court of Appeals for the District of Columbia held, in an important case, that DOE had a legal obligation to begin accepting this material by January of 1998. That cannot be done unless this type of legislation is moved properly into place to provide for the interim storage of spent nuclear fuel. This is important, critical legislation to the country. I encourage its adoption by the House.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. KUCINICH].

Mr. HALL of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. KUCINICH].

The CHAIRMAN. The gentleman from Ohio [Mr. KUCINICH] is recognized for 4 minutes.

Mr. KUCINICH. Mr. Chairman, I would like to correct a few misconceptions that I have heard during this debate.

First of all, the American people were never asked to build nuclear powerplants. The industry made the decision to go ahead. There was never a vote on it by the American people. The industry decided to build nuclear powerplants.

When the nuclear power plants were built, there were no plans by the industry at that time to talk about how the waste would be dealt with.

There are myths about the disposal of nuclear waste. First of all, we cannot dispose of nuclear waste. It lasts for thousands and thousands of years, something the gentleman from Massachusetts [Mr. MARKEY] pointed out. I would like to add that we cannot move

it either, because once it is on a site, that site is contaminated. We cannot transport it out of anywhere. Nuclear power sites essentially are scorched Earth. That land will never be used again for anything.

Right now there are nearly 109 nuclear dump sites in America. When the waste is moved to Yucca Mountain, there will be 110 contaminated sites, not 109 less. When it will be moved from Yucca Mountain, then there will be 111 contaminated sites.

Nuclear power promised power too cheap to meter. It delivered electricity too expensive to use. It promised safe electricity. Three Mile Island and Chernobyl put the lie to that.

The nuclear power industry has caused utility rates to go up across this country. In my State of Ohio in the northern part of our State, utility rates are twice as high as they are in the southern part of the State. Everyone in this country who has nuclear power as a source of energy knows why their electric bills are so high.

Now the ratepayers are being told that they will pay more under this bill. Utility rates will go up even higher, and why? To bail out an industry that has built plants that have been neither used nor useful. The nuclear power industry has been holding up utility deregulation until they can dump the responsibility for nuclear waste, re: that stranded investment, on to the residential ratepayers and the small businesses and the taxpayers. This bill is the first step.

□ 1730

The waste belongs to nuclear power plants. But by law, when this bill is passed, the Department of Energy takes title. And who is the Department of Energy? The taxpayers of the United States of America. It is then the waste belonging to the people, their responsibility. If there is an accident, the taxpayers will end up paying for it. The waste will last for thousands of years. The taxpayers will end up paying to monitor it. The taxpayers will end up having to pay to isolate it from the biosphere. The taxpayers. The taxpayers. The taxpayers will buy a nuclear pig-in-a-poke waste dump and be stuck with the bill for it forever.

There is no known technology which can safely isolate the waste from the biosphere. The transportation of waste through populated communities, 50 million Americans will live within a half mile of the nuclear transportation routes, ensures that there will be a significant hazard to major populated areas.

The safety issues have not been adequately met in this legislation. There were amendments that were never even able to get out of the Committee on Rules that would have protected major population areas. This bill will, I believe, begin the dawning of new civic activism in the United States from people who are fed up with a nuclear industry which has in some cases ruined our economy because of high electric rates, passed the bill on to the

ratepayers, and now wants to stick the American taxpayers with hundreds of billions of dollars of debt.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, may I inquire how much time we all have remaining?

The CHAIRMAN. The gentleman from Colorado, Mr. DAN SCHAEFER has 11½ minutes remaining; the gentleman from Texas, Mr. HALL has 18½ minutes remaining; the gentleman from Alaska, Mr. YOUNG has 10 minutes remaining; and the gentleman from Massachusetts, Mr. MARKEY has 4 minutes remaining.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, might I ask the gentleman from Texas [Mr. HALL] if he has some more speakers here?

Mr. HALL of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, 50 years ago in April 1947, a ship in the Texas City harbor bearing a cargo of now what stands before us all, after Oklahoma City, as an indelible memory of ammonium nitrate fertilizer was destined for war-torn Europe. That morning that ship caught fire a little after 9 a.m.

The Texas City disaster, as it has come to be known, happened as the ship exploded. Within moments, the Monsanto Chemical Plant that was nearby was in flames as entire buildings collapsed, trapping people inside. Fires quickly spread to the refineries that made up the Texas City industrial complex, with the force of a small nuclear weapon, setting off a tidal wave, causing a disaster that resulted in nearly 600 deaths in a town of about 16,000.

We have come a very long way in 50 years. Fortunately, we have learned from our mistakes. We understand the dangers of densely populated areas, and we have gotten very good at taking the right precautions and anticipating as many scenarios as possible.

But nothing is ever 100 percent foolproof, no matter how close we may come. If my colleagues believe that transporting the Nation's spent nuclear fuel to an interim storage facility makes sense, then they would have to agree, whether they agree with that principle or not, it should be done as safely as possible. If the unforeseeable or improbable does happen somehow, we all want the risks to human life or health to be as low as can possibly be.

In the committee I offered an amendment that would have added language directing the Secretary to choose routes for spent nuclear fuel and high-level radioactive waste to minimize transportation through populated areas. There may be cases where it is safer to use routes that are nearer to areas of population because of superior rail lines or highways. However, where track or road quality and other factors are otherwise equal, it is clear the Secretary should take into account proximity to human beings.

My intent is to enhance safety, not compromise it. I want to thank the

chairman for working with me and my staff over the intervening weeks and for including my amendment as part of his own.

In the light of the progress in the work of the committee, I support this bill. I share the concerns of many, but I believe that the chairman and ranking members of the full committee and subcommittees have made an extraordinary good-faith effort to address the concerns of Members like me who care about safety in densely-populated urban areas, as I believe virtually all of us do. And I think that right now, with the clock running, this represents a sound path toward a more permanent solution.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. CUMMINGS].

Mr. CUMMINGS. Mr. Chairman, while I do not support this bill, I do believe that we must solve our nuclear waste problem. This bill is merely a temporary fix for a problem that has long-term implications. Our Nation is at a crossroads. We have benefited from nuclear technology. We are a Nation that has won wars and deterred others because of nuclear science. This technology is a cheap and efficient way to light our towns and cities. We have paid a price for this benefit.

Over the last 50 years, our Nation has generated tens of thousands of tons of highly radioactive nuclear materials and waste. I cannot stress the importance of finding a permanent and viable solution to the disposal of these wastes.

I have many fundamental problems with the bill before us that can be solved if the issue were given further consideration. This legislation allows for nuclear waste to be stored above ground in so-called interim storage facilities located in the State of Nevada. I am concerned that legal limitations to ensure that interim storage does not become permanent storage will be eroded.

The bill does not adequately address public health and safety protections relating to transportation, interim storage, and permanent disposal of nuclear waste. My constituents in Baltimore, as customers of the Baltimore Gas and Electric Company, pay into their nuclear waste fund, which is designed to cover costs of both interim storage and the permanent repository. I worry that places a continuous burden on utility customers around the country because this bill does not create a permanent repository.

I urge my colleagues to vote against this bill. We have much more work to do to ensure the protection of the public health, safety and environment.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Chairman, I thank the gentleman from Colorado [Mr. DAN SCHAEFER] for yielding me the time.

Mr. Chairman, I rise in support of H.R. 1270. I also want to salute the original drafter of this bill, the gentleman from Michigan [Mr. UPTON], for his work.

I want to talk a little bit about safety. I want to also talk about Halloween for a moment, because it seems Halloween is not until Friday but the gloom and doom stories have already begun. The myths about a "mobile Chernobyl" are about as credible as the legend of the headless horseman.

I know that transportation is a problem. Some Members have spoken about that. Safety is a problem, as well. I want to speak to both of those issues quickly.

Consider the record: 30 years of experience, 2,400 shipments of spent nuclear fuel, over 1.5 million miles logged in this country, does not include the 100 million miles that the gentleman from Idaho [Mr. CRAPO] talked about on the nuclear weapons side, and all of this movement with zero radioactive releases and no harm to the environment or American citizens. The casks are engineered safe. They are tested, they are demonstrated, and they are certified safe by the NRC, the Nuclear Regulatory Commission, for transportation.

I would like to focus on this chart. These are some of the tests that have taken place with respect to the casks. They include a 30-foot free-fall; a puncture test onto a steel rod, 6 inches, dropped from a height; a collision, get this, a collision with a speeding locomotive at 80 miles per hour; and fire at over 2,000 degrees Fahrenheit. I know the chart says 1475, but beyond that it has gone over 2,000. If that is not enough, these same casks were submerged underwater for 8 hours, all with no radiological releases. This technology is currently being used around the globe, so these casks are safe.

Opponents argue that H.R. 1270 infringes on State and local jurisdictions. We already heard a little bit about that. But, rather, H.R. 1270 requires advance notification to State and local governments before spent fuel crosses their jurisdiction and the defers to the States on designating the best routes. Transportation is safe.

I urge my colleagues to vote for this bill.

The CHAIRMAN. The gentleman from Colorado, [Mr. DAN SCHAEFER] has 9½ minutes remaining. The gentleman from Texas [Mr. HALL] has 14¾ minutes remaining. The gentleman from Nevada [Mr. ENSIGN], who has been the designee of the gentleman from Alaska, has 10 minutes remaining. And the gentleman from Massachusetts [Mr. MARKEY] has 20 minutes remaining.

Mr. ENSIGN. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, we have heard several things from the proponents of the bill. I just want to say first of all, on the issue of urgency, a 1989 MRS Commission review found no safety advantage to centralizing the storage of spent fuel, taking it from all of these sites to

one. In 1996, the Nuclear Waste Technical Review Board analyzed the issue of interim storage and concluded there is no urgent need, no urgent need, for centralized storage of commercial spent fuel. No need, no compelling necessity, no safety advantage to be achieved. That was 1996.

Now the Nuclear Waste Technical Review Board underwent a change in the composition of the chairmanship. So, in effect, there was an opportunity for a new board composed of new members to review whether or not they would agree with the position taken by the predecessors in 1996.

In testimony on February 5, 1997, Dr. Gerard L. Cohen, the chairman of the Nuclear Waste Technical Review Board, Dr. Cohen simply reaffirmed the position taken by his predecessors that there is no need, either for technical or safety reasons, to move spent fuel to a centralized storage facility for the next few years. He further maintains that to maintain credibility of the site selection process, any decision with respect to interim storage should be deferred until a technological site suitability decision can be made about Yucca Mountain.

Mr. Chairman, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I yield 3½ minutes to the gentleman from New York [Mr. TOWNS], an original cosponsor of this legislation.

Mr. TOWNS. Mr. Chairman, let us put the facts on the table. In 1982 Congress passed the Nuclear Waste Policy Act, which placed responsibility for the management of spent nuclear fuel, beginning in 1998 and for its ultimate disposal, with the Federal Government.

Since 1982 Congress has watched as successive Departments of Energy have attempted to move Federal nuclear waste programs forward, without any success, for a variety of reasons. Progress in this crucial problem has been painstakingly slow. How long must we wait?

Last year, this inaction resulted in a number of utilities suing the Department of Energy to fulfill their obligation to accept spent nuclear fuel beginning January 31, 1998. The U.S. Court of Appeals ruled in favor of the utilities on this issue. However, there is still no mechanism in place to establish an interim storage site that would enable the department to move forward with the acceptance of the waste.

The establishment of an integrated spent fuel management system, as established by our bill, H.R. 1270, will permit the Secretary to realize safety, efficiency and the economic benefit of a comprehensive design. In short Mr. Chairman, a centralized interim storage facility would mean high-level waste would be consolidated at one site instead of 40 different sites throughout this country.

Let me assure my colleague, the gentleman from Massachusetts [Mr. MARKEY], who painted a picture of trucks running 100 miles an hour through tun-

nels, let me assure him that they will be ticketed.

Now, some have argued that the utilities are merely crying wolf, that an interim facility is not needed because utilities can expand their own site storage. Well, let me stress here today that an interim facility is absolutely critical. The Nation's 107 nuclear plants face storage emergencies today. As we consider this legislation, 10 plants no longer have room in their original facilities. Next year, 27 will run out of space. And by 2010, 80 will lack any capacity to store waste at all.

Moreover, H.R. 1270 postpones construction of an interim storage facility until the year 2002.

□ 1745

This 4-year delay will give the Secretary of Energy an opportunity to submit a viability assessment of the Yucca Mountain repository to the President and this Congress. Since 1982, utilities have paid over \$13 billion into a nuclear waste fund. Yet the Federal Government has not lived up to its responsibility to establish a Federal storage facility. We must stop shucking and jiving. Let us not delay any longer our responsibility to store the Nation's nuclear waste. I urge my colleagues to vote aye and stop the procrastination. The time to move is now.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. I thank the gentleman for yielding me this time. Mr. Chairman, I think it would be good for all of us to face up to the fact that today we are dealing with a solution of disposing of one of the wastes of an industrialized society.

In 1971, during the beginning of the Arab oil embargo, the Secretary of Agriculture asked me to be Director of Energy for USDA. Almost every morning at 6:30 a.m., we went over to the White House with Bill Simon and we talked about the problem. At that time we were importing about 50 percent of our energy needs. We came up with what we thought were wise ideas to deal with the problems. We started to subsidize the development of alternative fuels. We decided to start subsidizing such things as mass transportation to increase efficiency of energy in this country. And we started talking about the wisdom of expanding the production of nuclear energy. We also discussed what do we do with the waste generated by the production of energy by nuclear power. We talked about the possibility of burying it in the ocean. We actually talked about the possibility of putting it into outer space and keeping it in orbit.

But instead there seemed to be no good solution, and nothing was accomplished. Over the years nuclear waste has continued to be stored outside the generating facilities where it occurs. None of the ways that we generate energy is benign. They all have serious problems. Most of our energy is gen-

erated by coal (56 percent). If the administration has their way at the Kyoto Conference, what we are going to do is imply that we should expand the generation of nuclear energy in order to decrease coal generated power.

It is interesting to note that after our discussions in 1971 and 1972 of where to go on expanding nuclear energy production to be more self-sufficient in the United States, the following year, in 1973, a request by a utility company to build the last nuclear energy plant to be built was received. I would suggest that this country is never going to again develop another nuclear energy generating plant.

The government promised the people of this country in 1982 that government would take the responsibility to get rid of the existing generated nuclear waste. In return utilities using nuclear power, through their customers would pay additional "taxes" and send it to Washington. Over the years those rate-payers have paid in an additional \$13 billion.

Now we are dealing with what the government promised to do. I compliment the gentleman from Michigan [Mr. UPTON] for bringing this legislation to us. We are moving ahead. Eventually we are going to find other sources of energy in this country. But until then we have got to be responsible to make sure Washington keeps their promise. We have got to be responsible to develop the best possible ways to deal with nuclear waste disposal. It is much more logical at this time to put this waste in a centralized location rather than spread it over 38 States.

Delays and cost overruns have created a national nuclear waste policy of stop-gap measures and ad hoc solutions instead of centralized, streamlined results. Today, highly radioactive waste sits scattered at over 80 different locations in 38 states.

FRED UPTON's bill will help establish an interim storage facility while work continues on the permanent solution—that way we can get nuclear waste away from vulnerable areas like the shores of Lake Michigan and the Chesapeake Bay.

Mr. HALL of Texas. Mr. Chairman, I yield 3 minutes to the gentlewoman from Colorado [Ms. DEGETTE], a valued member of the Committee on Commerce.

Ms. DEGETTE. Mr. Chairman, I would like to be clear. Many of us understand that we need a sensible policy for getting rid of nuclear waste that threatens many of our metropolitan areas. In my City of Denver, we are right downwind of some nuclear waste at Rocky Flats that will need to be disposed of. But we should not send this waste to uncertified sites and we should not send this waste along urban corridors that are going to be destructive for transportation purposes.

The National Waste Technical Review Board, a nonpartisan body created by Congress to evaluate the technical and scientific validity of the Department of Energy's program to manage

the permanent disposal of the Nation's civilian spent fuel and high-level radioactive waste issued its report to Congress in March. The Board believes that the viability assessment, which will be completed by September 30, 1998, will not provide adequate information for establishing Yucca Mountain as a repository site.

Mr. Chairman, the gallery is not in order and it is difficult for me to proceed.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would remind the guests in the gallery, you are guests and we ask that you respect the rules of the gallery, and that is to keep silent during the proceedings.

The Chair apologizes to the gentlewoman. The gentlewoman may proceed.

Ms. DEGETTE. Thank you, Mr. Chairman.

Specifically, the board's report states that a decision to locate the Nation's primary centralized storage facility for spent fuel at or near Yucca Mountain should be deferred until the suitability of the site as a repository location has been determined.

The suitability of Yucca Mountain as a permanent site will not even be determined until the year 2001. Why then are we going to send this high-level nuclear waste from the East Coast, from around the country, across 40 States of this country, including places like the Mousetrap, which as Members can see through this map, runs right through the center of downtown Denver, and the location in which 8 years ago a torpedo fell off a truck completely shutting down the city for 8 hours? Why would we send this waste to an uncertified site only to have it be sent somewhere else? And why would we send it through corridors like downtown metropolitan areas where millions of citizens could be at risk?

It makes no sense. I do not understand where we are rushing to transport this nuclear waste until the site is certified. In addition, there is no national standard requiring emergency response training for communities along transportation routes so if there is an accident in the Mousetrap the local law enforcement officers know what to do. There is no requirement that these officials even be notified of the transport.

For all of these reasons, this is a premature bill, it is a bad response to a very real problem that we have in this country. I urge my colleagues to oppose passage of this bill until we find a permanent site for this nuclear waste and until we find a reasonable transportation solution.

Mr. ENSIGN. Mr. Chairman, I include for the RECORD this letter from the President of the United States indicating that he would veto H.R. 1270.

The text of the letter is as follows:

STATEMENT OF ADMINISTRATION POLICY

If H.R. 1270, as reported by the Commerce Committee, were presented in its current

form, the President would veto the bill. H.R. 1270 would undermine the credibility of the Nation's nuclear waste disposal program by designating a specified site for an interim storage facility before the viability of that site as a permanent geological repository has been assessed.

The Administration is committed to resolving the complex and important issue of nuclear waste storage in a timely and sensible manner. The Federal government's long-standing commitment to permanent, geological disposal should remain the basic goal of high-level radioactive waste management policy. This Administration has instituted planning and management initiatives to accelerate progress on determining the suitability of Yucca Mountain, Nevada, as a permanent geologic disposal site.

H.R. 1270, however, would establish Nevada as the site of an interim nuclear waste storage facility before the viability assessment of Yucca Mountain as a permanent geologic repository is completed. Moreover, even if Yucca Mountain is determined not to be viable for a permanent repository, the bill would provide no plausible opportunity to designate a viable alternative as an interim storage site. Any potential siting decision concerning such a facility ultimately should be based on objective, science-based criteria and guided by the likelihood of the success of the Yucca Mountain site.

In addition, the Administration strongly objects to the bill's weakening of existing environmental standards by preempting all Federal, State, and local laws inconsistent with the environmental requirements of this bill and the Atomic Energy Act. This preemption would effectively replace the Environmental Protection Agency's authority to set acceptable radiation release standards with a statutory standard. In addition, the bill would undermine the purposes of the National Environmental Policy Act by, among other things, creating significant loopholes in the environmental assessment process.

Finally, the completion of a permanent geological repository is essential not only for commercial spent fuel disposal, but also for the cleanup of the Department of Energy's nuclear weapons complex and the disposal of its weapons-grade materials. In addition, these actions are necessary to further U.S. international nuclear nonproliferation objectives. H.R. 1270 would, in the near term, put interim storage activities in competition with actions needed to complete the permanent geologic repository. Consequently, the bill's enactment could delay the appropriate disposition of our surplus weapons-grade materials.

Mr. Chairman, I yield 3 minutes to the gentleman from Nevada [Mr. GIBBONS], who sits on the Committee on Resources, the major environmental committee, who voted this bill out unfavorably.

Mr. GIBBONS. Mr. Chairman, I want to thank the gentleman for yielding me this time, and I do want to address some of the myths that I have heard expressed here today about H.R. 1270. First of all, I want to address the issue of the ostrich policy, of sticking your head in the sand and hoping that nobody else sees the problem.

When I was a child, this reminds me of what my mother told me about 3 monkeys. Hear no evil, see no evil and speak no evil. It is odd that those people who are in support of this bill are exactly those ones who have nuclear waste in their backyard that want to get it out. They are the ones that have

benefited from this issue. Now they want to get rid of it and they want to get rid of it by the most expedient method possible, getting it wherever it is into the State of Nevada.

Let me address the issue about the interim storage site versus the permanent storage site. They are not one and the same. They are miles apart. The interim storage site is a nuclear test site. Yes, indeed we did detonate some nuclear weapons there years ago. We regret we did that. We regret that the State of Nevada almost paid the whole price for the nuclear industry. But the permanent site is miles away. It is not even co-located. We are making two sites in Nevada, not one.

Second, we are not talking about some magic cosmic mode of transportation. We are not just picking this stuff up and then setting it down, as I heard someone say earlier. What we are doing is shipping this through communities, 43 States, hundreds of communities, numerous schools with children at play. Let me say when we look at this map here, this is where we are sending it through this country. These are the rail and highway systems through which we are bringing most of it from east of the Mississippi River, west to Nevada, right there.

Transportation is probably the biggest issue we have got here today. The likelihood of an accident is more than just a remote possibility. It is a reality. When we look at this accident, this is a train accident, a recent train accident. I hope people vote against this.

Let me talk about some of the standards that I have heard here today. We have dropped one of these casks from a standard height of 30 feet. Mr. Chairman, it is 450 feet off Hoover Dam to the bottom. That is a little more than 30 feet. This cask would not stand up to the drop of 450 feet into the bottom of the Colorado River at the base of this dam. I guarantee my colleagues that this cask would be in that water more than 8 hours. Fires with metal containing titanium or other metals burn at a temperature of in excess of 3,000 degrees. That is a little more than the fire that they have exposed these casks to. This is a kind of accident that could occur, that will occur if we allow this stuff, this nuclear waste, the most dangerous stuff known to man, to be transported across our community, through our States, next to schools. It is a danger to every American. We ought to oppose this bill. We ought to reject it outright, and we ought to change the policy from burial.

Mr. HALL of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. GORDON], a member of the committee.

Mr. GORDON. Mr. Chairman, I rise today in favor of H.R. 1270. Many Americans have a temporary nuclear storage site close to home. My own State of Tennessee has a legacy of high level nuclear waste that is stored on-site. The nuclear weapons that were

built in Oak Ridge helped this entire Nation win World War II and the Cold War. Now we have the opportunity through the Nuclear Waste Policy Act of 1997 to establish a central storage facility in an underpopulated area that would be easier, safer and more economical to monitor.

□ 1800

I understand the concerns of my colleagues who oppose this bill. I know that no one wants a nuclear storage site in their backyard, but there is no magic wand that will make this waste go away. It is here, we have no choice but to deal with it. We need a solution to this growing problem, and the repository at the Yucca Mountain offers the best opportunity.

The Southern Governor's Association took steps in this direction earlier this month by passing a resolution in favor of H.R. 1270. Additionally, we cannot ignore the fact that consumers have paid into the Nuclear Waste Fund to store this waste. TVA alone has expended over \$20 million in additional funds because DOE has failed to take this waste.

We must assure the public of the safety of any repository. The nuclear industry has been storing fuel in 34 States for more than three decades. Though the industry is now safely managing used fuel, long-term on-site storage was never intended.

A central storage facility to keep much of this waste is necessary, and the Yucca Mountain fits the requirement for safe storage of spent nuclear fuel.

Mr. Chairman, H.R. 1270 meets the public's need for a safe alternative for temporary used fuel storage at one site until a permanent storage facility is completed. This is a long overdue solution to a difficult issue.

Mr. Chairman, I urge my colleagues to support this legislation.

The CHAIRMAN. The Chair would announce that the order of closing will be the gentleman from Massachusetts, Mr. MARKEY, first; the gentleman from Nevada, Mr. ENSIGN, second; the gentleman from Texas, Mr. HALL, third; and the gentleman from Colorado, Mr. DAN SCHAEFER, fourth.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, we are looking at an issue that certainly covers a lot of folks' interests, and certainly the people who oppose this piece of legislation certainly have a backyard interest of their own.

Mr. Chairman, 15 years ago, that is how long ago Congress originally passed the Nuclear Waste Policy Act. In 1992, Congress envisioned that the Department of Energy would be accepting spent fuel by 1998. That is less than two months away.

Fifteen years ago, Ronald Reagan was two years into his first term, Tip O'Neill was Chairman, typewriters, not computers were the norm, and the Soviet Union was still considered the evil empire.

But perhaps most telling was the fact that 1992 was still a full two years before the Chicago Cubs would make it to post-season play. If you are a Cubs fan,

you will know how long that really was.

Mr. Chairman, unfortunately though, after billions of dollars and a decade and a half, we are only a few steps closer to opening a permanent repository than we were in 1982. This bill replaces the sluggish action that has plagued DOE's Nuclear Waste Program with specific achievable deadlines and ensures that another 15 years will not pass before the Federal Government lives up to its responsibility of accepting spent fuel.

Mr. Chairman, we have spent billions of dollars looking into this issue. We have assessed from ratepayers, not taxpayers, but ratepayers. Every time somebody pays their utility bill, we are reaching into their pocket and we have taken billions of their dollars. What has the Federal Government been able to deliver for that billions of dollars? Absolutely nothing.

The ratepayers, our constituents, Mr. Chairman, know that it is time for this Congress to take the bull by the horns and deliver the promise that it made in 1982.

Mr. Chairman, we need to pass this bill. We need to fulfill the promise to the American people that this country will have a safe and sound nuclear waste policy. We cannot allow another 15 years to go by. Regardless of what we hear on the floor today, we need to find an environmentally sound and permanent solution to the management of spent nuclear waste.

Mr. Chairman, I include the following for the RECORD.

H.R. 1270 (passed E+P subcmte. 21-3)

S. 104 (passed Senate 65-34)

#### TRANSPORTATION

- No rail access directly to Yucca Mtn. But contemplates the possibility of future rail access .....
- Use heavy-haul from main rail line at Caliente, NV to Yucca Mtn .....
- Construction and operation of railroad requires NEPA review .....
- Advanced state notification requirement .....
- State has preferred routes for transporting nuke waste .....
- Follows current HazMat regulations on transport of hazardous waste .....
- Heavy-haul must be ready by 1/31/2002 .....
- No provision for transportation training requirements (this is major in the Senate's bill) .....
- Tech. assis. to states in case of emergency .....
- No immediate rail access to Yucca Mtn. No later than one year after enactment of the bill, DOT will promulgate routing rule for nuclear waste by rail to Yucca.
- Heavy haul capability must be ready 18 mos. After NRC issues a license for an Interim Storage Facility (ISF).
- Each state has preferred transportation routes.
- Gov's must be notified when fuel comes into state.
- Nationwide transportation educ. program.
- Major training requirements for indivs. involved in transportation. (This provision was important to gain the support of Dem. Members and the labor unions.)

#### MILL FEE AND ONE-TIME FEES

- Beginning FY99 & opening of perm. repos. the annual mill fee must avg. to 1 mill. & can't exceed 1.5 mills. After perm. repos. is functional, mill fee capped at 1 mill.
- One-Time Fees paid in 2002 .....
- Capped at 1 mill. (See below for pros and cons).

#### DEFENSE WASTE

- DOE must accept fuel from defense activities (Crapo) .....
- DOE must accept fuel from defense activities (Craig).

#### DEFENSE WASTE FACILITY (ISF)

- To be located at Yucca Mountain .....
- Functional 1/31/2002 .....
- Construc. begins when Sec'y applies for NRC license .....
- To be located at Yucca Mountain
- Functional 6/30/2003.

#### INTERIM STORAGE CAPACITY

- Phase I: 10,000 MTU and licensed for 20 years. License must be filed within 12 months of enactment .....
- Phase II: capacity increased to 40K with an initial term of 100 years .....
- No specific date for start of phase II to begin operation .....
- No phases for the development of the ISE.
- The capacity will be determined at the time of license appl. and based on emplacement schedule and expected date of perm. repository operation
- The capacity is expandable.
- Licensed for 40 year term.

#### PERMANENT REPOSITORY

- Sec'y must apply to NRC for construction authorization no later than 12/31/02 .....
- Perm. Repos. will be functional 1/17/10 .....
- If Sec. determines Yucca is not suitable, he must contact Congress w/in 6 mos. with recommendations for a new site.
- Requires DOE to continue with site characterization at Yucca.
- Requires DOE Sec. to apply to NRC for construction auth. no later than 10/31/01.
- Functional 2015.

#### PAYGO FIX

- The House has a 5 year budget window which must be addressed .....
- The House addresses its PAYGO shortfall by switching to a user fee in FY99 and collecting the outstanding one-time fees in 2002.
- The fee is paid into the Treasury, not the Nuclear Waste Fund .....
- The Senate has a 10 year budget window which must be addressed.
- The Senate addressed their PAYGO shortfall by continuing the mandatory receipt of \$600 million during FY98. In FY99, it switches to a user fee until FY01 where the government collects only what it will spend on Yucca. In FY02, they collect the payment of one time fees. This scenario will cover the first 5 years. In FY02, they revert back to the mandatory \$600 million receipts to pay for the next 5 years. (This user fee is suspended during this period and utilities are forced to pay the full amount to cover the PAYGO problem). In 2007, the user fee is reestablished. The fee is paid to the Treasury, not the Nuclear Waste Fund.

Mr. HALL of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. BERRY].

Mr. BERRY. Mr. Chairman, I rise in support of H.R. 1270. Currently, a part of every electricity consumer's bill goes directly into the Nuclear Waste Fund. This fund was set up by the Congress in 1982 and requires the Department of Energy to set up a nuclear storage facility and begin accepting nuclear waste by 1998.

However, out of the over \$12 billion that have already been paid into the fund, only \$4.8 billion have been spent on waste storage research and funding for storage facilities.

Since the Department of Energy has not constructed a waste storage facility, the other \$7 billion has been diverted into unrelated uses such as deficit reduction. This is the same type of problem we have with the Highway Trust Fund. Citizens constantly pay into this fund, but they see nothing in return.

If the Department of Energy had performed its required actions, we would not be debating this bill. An interim storage facility would already be in place and a permanent facility would be in the near future.

If the Department of Energy had performed its required actions, then this money would have been used for its intended purpose, for managing the efficient disposal of nuclear waste.

Arkansans and other electricity consumers are already paying twice for nuclear waste, one payment into the Nuclear Waste Fund and another payment to maintain on-site storage facilities across the United States. This double payment can and will be halted with the passage of this bill.

Mr. Chairman, on behalf of all electricity consumers, I urge my colleagues to vote for H.R. 1270.

Mr. MARKEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the legislation.

Mr. Chairman, when Congress enacted the Nuclear Waste Policy Act in 1982, and then amended it in 1987, we made certain agreements among ourselves, the utility companies and the American people.

One, we decided that the federal government would assume the responsibility for permanent disposal of high level nuclear waste.

Two, we would limit our consideration of possible locations for such permanent disposal to Yucca Mountain in Nevada.

Three, the nuclear utilities would pay a fee to the US government to run the program and fund the construction of the permanent facility.

And, four, the utility companies would keep their nuclear waste until we knew with certainty that the Yucca Mountain repository would be built.

The bill before us today, H.R. 1270, fundamentally changes that covenant.

On October 8, the Resources Committee without one public hearing, reported unfavorably this extensive and complicated bill, H.R. 1270.

Today, we are considering a bill that will overturn the decision we made to focus on construction of a safe, permanent facility and instead mandate the immediate construction of a temporary storage site at Yucca Mountain in Nevada.

In so doing, the bill will prejudice the ongoing viability studies, and make it more difficult for us to learn whether Yucca Mountain is the right place to permanently store high level nuclear waste.

Additionally, no one has done any scientific studies to determine whether the site specified in HR 1270 is safe for interim storage of high level nuclear waste.

The bill will preempt all federal and state laws that the Secretary of Energy deems to be inconsistent, or that present an obstacle, to implementation of this new law.

During the 1980's, Congress built a strong national policy on nuclear waste. We decided that the federal government would take responsibility for the permanent disposal of high level nuclear waste. We decided to find the appropriate location for that disposal and to build the permanent facility before moving tens of thousands of high level nuclear waste now located at nuclear reactors across the country to the permanent disposal site. High level nuclear waste can be moved safely; but, there is no reason to move it more than is necessary.

Yes, there have been problems with the Department of Energy's implementation of this plan. But, they appear to be on the right track now. The science we need to make an informed and objective decision is nearly complete. HR 1270 would prejudice the determination on whether Yucca Mountain can and should contain the permanent repository for the nation's high level nuclear waste by creating a de facto repository at the Nevada Test Site.

HR 1270 affirmatively preempts the National Environmental Policy Act. It legislates the selection and construction of an interim storage facility on public lands without any scientific or environmental analysis to support the premise.

Current law prohibits the construction of an interim storage facility in Nevada, and limits the size of any other temporary facility to 10,000 tons of waste. HR 1270 mandates that DOE build the interim facility in Nevada and allows up to 40,000 tons of high level nuclear waste to be immediately stored there—with no environmental compliance.

President Clinton will veto this bill if it reaches his desk. Senator HARRY REID and his Nevada colleagues are unanimously opposed to this bill. I urge my colleagues to oppose H.R. 1270.

Mr. MARKEY. Mr. Chairman, I yield myself the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I yield one minute to the gentleman from Massachusetts [Mr. MARKEY].

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] is recognized for four minutes.

Mr. MARKEY. Mr. Chairman, I will include for the record letters from Erskine Bowles, the Chief of Staff to the President; Franklin Raines, the Director of OMB; and a formal statement of administration policy expressing oppo-

sition to the bill and the recommendation of the President's advisors that the bill be vetoed.

Mr. Chairman, we are at a very bad point right now. There was at least at the beginning of the discussion of the disposal of all nuclear wastes in the United States some integrity in the process back in 1982. We set out to find the site, east of the Mississippi, west of the Mississippi, wherever it may be.

But in 1987, we came back here to Congress, and many people were very upset about what was going on. They might have been pro nuclear, but they did not want the waste in their district. So we passed another bill in 1987. What did we say?

Well, the Chairman of the House then came from Texas. He said, "I don't want it in Texas." That was one of the sites. The second site was in Washington State. The majority leader came from Washington State. He said, "I don't want it in Washington State." It was out. The third State was the salt domes in Louisiana. The Chairman of the Committee on Energy came from Louisiana. He said, "I don't want it in Louisiana," and it was out. The fourth site was in North Carolina. The ranking Republican on the Committee on Commerce came from North Carolina. North Carolina was out. The fifth site was the solid granite of New Hampshire, and Ronald Reagan and George Bush said, "That is out in 1988. We are not burying all the nuclear waste in America in New Hampshire."

So we kept searching, playing this game of thermonuclear hearts, trying to stick the queen of spades with somebody. So we looked around, and what did we find? We found the State of Nevada, two Congressmen, two Senators. "You get all the nuclear waste. We are picking you."

Even that had some integrity. At least they were going to have to determine whether or not the site was suitable for all the nuclear waste.

But, today, we come back again. We are not happy with that. There are still five years until the year 2002, from deciding whether or not, in fact, Yucca Mountain is the right place for all the nuclear waste, but we cannot wait.

So what are we doing here today? We are going to decide to take all of the nuclear waste in America, put it on trucks, put it in railroad cars, and ship it to Nevada, and put it in an above-ground mausoleum that is going to be finished in 2002, just in time to have the site characterization process by scientists and geologists tell us that Yucca Mountain is not the right place for a permanent repository.

As a result, we will have to begin the process all over again to find the right site, and eventually we will have to pack all the nuclear waste up again, put it back in vans and trucks and railroad cars, and send it to another place in America.

Why are we doing this? We are doing this not because there is some emergency at any nuclear facility in America. In fact, we are told that it is 100



percent safe at every facility right now. We are doing this because the nuclear industry does not want a permanent repository. They do not want to have to pay for it.

They promised the American people that nuclear power was going to be too cheap to meter, and that they were going to be able to bury the waste permanently. We now know it is the most expensive way of generating electricity. Wall Street killed nuclear power it wasn't some ponytailed, grana-chomping protest force outside a nuclear power plant.

Secondly, they do not know where to bury the nuclear waste and they do not have any intention of paying for it, and they want us to pretend here today that we are going to do something about it and stick the queen of spades with the State of Nevada.

Well, Mr. Chairman, this is a completely irresponsible position to take. It is intergenerationally irresponsible for this generation to stick the next generation with the job and the cost of burying all this waste.

This is a bad bill. It is bad environmental policy. It is bad fiscal policy, and it is bad policy intergenerationally. I urge a no vote on this bill as strongly as I can of any bill that has ever come out on this House floor.

Mr. Chairman, I include the letters referred to earlier for the RECORD.

THE WHITE HOUSE,  
Washington, October 28, 1997.

Hon. NEWT GINGRICH,  
Speaker of the House of Representatives,  
Washington, DC.

DEAR MR. SPEAKER: It is my understanding that the House of Representatives soon will consider H.R. 1270. I am writing to reiterate the Administration's objection to this legislation. If the bill were presented to him in its current form, the President would veto it.

As I have stated previously, the Administration is committed to resolving the complex and important issue of nuclear waste storage in a timely and sensible manner, consistent with sound science and the protection of public health, safety, and the environment. The Federal government's long-standing commitment to permanent, geologic disposal—reflected in the Nuclear Waste Policy Act of 1982—should remain the basic goal of high-level radioactive waste management policy.

Any decision on the siting of an interim storage facility should be based on objective, science-based criteria, and be fully protective of public health and safety and the environment. This bill is unacceptable to the Administration because it falls far short of those goals. Additionally, H.R. 1270 does not contain provisions to offset potential deficit increases in its early years; consequently, if the bill were enacted, any deficit effects could contribute to a sequester of mandatory spending in each of FY 1999 through 2001.

Secretary Peña and the entire Administration remain committed to working cooperatively with the Congress and with all involved stakeholders on nuclear waste disposal issues within the confines of the President's policy. The Department is on an aggressive schedule to resolve the key unresolved scientific and technical questions about Yucca Mountain.

Sincerely,

ERSKINE B. BOWLES,  
Chief of Staff to the President.

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT  
AND BUDGET,

Washington, DC, September 18, 1997.

Hon. THOMAS J. BLILEY, JR.

Chairman, Committee on Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to advise you of the Administration's views on H.R. 1270, the proposed Nuclear Waste Policy Act of 1997. The Administration shares your commitment to resolving the complex and important issue of nuclear waste management in a timely and sensible manner, consistent with sound science and the protection of public health, safety, and the environment. The Federal government's long-standing commitment to permanent, geologic disposal should remain the basic goal of high-level radioactive waste management policy.

Congress established a process to ensure that sound technical judgment plays the primary role in determining whether a particular site can host a permanent nuclear waste repository. Designating the Nevada Test Site as the interim waste storage site at this point undermines the ongoing evaluation of Yucca Mountain as a permanent disposal site as required by the Nuclear Waste Policy Act Amendments of 1987. In addition, the bill runs the risk of reducing resources needed for this effort. More importantly, it could undermine the credibility of the Nation's nuclear waste disposal program by prejudicing the Yucca Mountain permanent repository decision.

The Administration believes that a decision on the siting of an interim storage facility should be based on objective, science-based criteria and should be informed by the viability assessment of Yucca Mountain. Therefore, the President has stated that he would veto any legislation that would designate an interim storage facility at a specific site before the viability of a permanent geologic repository at Yucca Mountain has been determined.

In addition, the bill presents a number of environmental problems, including the removal of the Environmental Protection Agency from its responsibility for developing a radiation exposure standard and preempting the National Environmental Policy Act and other applicable Federal, State and local laws.

The Administration understands the concerns of the utility industry, public utility commissions, and others about the inability of the Department of Energy to accept spent nuclear fuel by January 31, 1998. Secretary Peña has made every effort since his confirmation to work cooperatively with the affected parties to find satisfactory ways of mitigating the impacts of this delay and will continue to do so.

Thank you for your consideration of these views.

Sincerely,

FRANKLIN D. RAINES,  
Director.

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT  
AND BUDGET,

Washington, DC, October 24, 1997.

STATEMENT OF ADMINISTRATION POLICY

H.R. 1270—NUCLEAR WASTE POLICY ACT OF 1997

If H.R. 1270, as reported by the Commerce Committee, were presented in its current form, the President would veto the bill. H.R. 1270 would undermine the credibility of the Nation's nuclear waste disposal program by designating a specified site for an interim storage facility before the viability of that site as a permanent geological repository has been assessed.

The Administration is committed to resolving the complex and important issue of nuclear waste storage in a timely and sensible manner. The Federal government's long-standing commitment to permanent, geological disposal should remain the basic goal of high-level radioactive waste management policy. This Administration has instituted planning and management initiatives to accelerate progress on determining the suitability of Yucca Mountain, Nevada, as a permanent geologic disposal site.

H.R. 1270, however, would establish Nevada as the site of an interim nuclear waste storage facility before the viability assessment of Yucca Mountain as a permanent geologic repository is completed. Moreover, even if Yucca Mountain is determined not to be viable for a permanent repository, the bill would provide no plausible opportunity to designate a viable alternative as an interim storage site. Any potential siting decision concerning such a facility ultimately should be based on objective, science-based criteria and guided by the likelihood of the success of the Yucca Mountain site.

In addition, the Administration strongly objects to the bill's weakening of existing environmental standards by preempting all Federal, State, and local laws inconsistent with the environmental requirements of this bill and the Atomic Energy Act. This preemption would effectively replace the Environmental Protection Agency's authority to set acceptable radiation release standards with a statutory standard. In addition, the bill would undermine the purposes of the National Environmental Policy Act by, among other things, creating significant loopholes in the environmental assessment process.

Finally, the completion of a permanent geologic repository is essential not only for commercial spent fuel disposal, but also for the cleanup of the Department of Energy's nuclear weapons complex and the disposal of its weapons-grade materials. In addition, these actions are necessary to further U.S. international nuclear nonproliferation objectives. H.R. 1270 would, in the near-term, put interim storage activities in competition with actions needed to complete the permanent geologic repository. Consequently, the bill's enactment could delay the appropriate disposition of our surplus weapons-grade materials.

#### PAY-AS-YOU-GO SCORING

H.R. 1270 would affect outlays; therefore, it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. Preliminary estimates indicate that H.R. 1270 would reduce offsetting receipts by \$630 million in each of FYs 1999 through 2001, a total of \$1,890 million, and increase such receipts by \$2,070 million FY 2002. H.R. 1270 does not contain provisions to offset potential deficit increases in its early years; consequently, if the bill were enacted, any deficit could contribute to a sequester of mandatory spending in each of FYs 1999 through 2001.

The CHAIRMAN. The Chair would advise Members that the order of closing is the gentleman from Nevada, Mr. ENSIGN, the gentleman from Texas, Mr. HALL, and the gentleman from Colorado, Mr. DAN SCHAEFER.

The gentleman from Nevada, Mr. ENSIGN, has 5½ minutes remaining, the gentleman from Texas, Mr. HALL, has 3½ minutes remaining, and the gentleman from Colorado, Mr. DAN SCHAEFER, has 4 minutes remaining.

Mr. ENSIGN. Mr. Chairman, before yielding to the gentleman from Nevada, I would like to just ask jokingly

for unanimous consent to build a statue for the gentleman from Massachusetts [Mr. MARKEY] in the State of Nevada, as he has fought so hard for our State.

Mr. Chairman, I yield 2 minutes to the gentleman from Nevada [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I do appreciate having the gentleman from Massachusetts [Mr. MARKEY] being a straight man for this whole event today.

Let me say that with regard to those people who believe that the ratepayers have paid into the fund enough money, let me say that this stuff is going to be around for thousands and thousands of years. I hope they are ready to keep paying, and paying, and paying, because they are going to have to pick up the responsibility if the taxpayers do not for the continued storage of this material at Yucca Mountain.

Let me talk about the suitability of Yucca Mountain, if I may, real briefly. First of all, I am a geologist and I truly understand some of the problems we have got with suitability. If we keep lowering the standards, sure, we can make it suitable for storage. The problem is that we are taking away the safety standards of this site.

Earthquakes, 33 known earthquake faults lie directly through this site in the Yucca Mountain area, and over the last several years, there have been over 600 earthquakes in the surrounding 5½ miles that have impacted this.

Earthquakes that raise the water table, that would surround and, in fact, could flood the repository, putting the canisters in harm of polluting the water table.

This groundwater contamination has been proven already. We have already got a study by the National Science Foundation that shows that plutonium has migrated almost 1 mile, 1 mile, into the ground through the rocks and is now approaching the water table, dangerously close to the supply of water for Southern California, Southern Nevada, et cetera.

□ 1815

There is volcanic activity simply 20 kilometers away from the site. There are dormant volcanoes that could erupt at any time. From a geologic standpoint, they are active, not dormant. They are merely sitting there waiting for their opportunity to explode and damage the Yucca Mountain site. Let me say also, there is concern there by scientists about the spontaneous atomic explosion that might occur. Some scientists have expressed that.

Let me say that this bill is the wrong approach and Yucca Mountain is the wrong site.

Mr. ENSIGN. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Nevada [Mr. ENSIGN] is recognized for 3½ minutes.

Mr. ENSIGN. Mr. Chairman, nearly 14 years ago a Senator from Louisiana, who was the chief proponent in the Senate, said, "Mr. President, this bill deals comprehensively with the problem of civilian nuclear waste. It is an urgent problem," does this sound familiar, "urgent problem. Mr. President, for this Nation it is urgent, first because we are running out of reactor space and reactors for the storage of fuel, and if we do not build what we call away-from-reactor storage space and begin that soon, we could begin shutting down civilian nuclear reactors in this country as soon as 1983."

That was 14 years ago. Not a single nuclear reactor in America has been closed or been forced to close because of the issue of running out of space. Some have closed because of overriding safety concerns about operation and maintenance, but none because they have run out of space to store nuclear waste.

Mr. Chairman, Congress has decided this issue, not the scientists. This would be similar, what Congress is doing in this bill, is saying with Yucca Mountain and with the temporary storage site at the Nevada test site, "I do not care what any of the scientists say, it is going to be the site, and it is going to be suitable, and we are going to lower the standards until it is suitable."

This would be like Congress saying to the medical community, "There is a disease out there that we want you to find a cure for. By the way, here is what the cure is going to be. Regardless of what the science shows, here is what the cure is going to be. I do not care what any of the rest of the science says, if there are other alternatives to treat this disease."

I know we are all experts here, we are all scientists, and that is why we are making these decisions. We are taking away that decision on nuclear waste, just as we would be taking it away from the medical community, say on breast cancer, by telling them it is going to be the answer out there, and not letting the scientists and the experts in the medical community make this decision.

The other myth is that we are taking this from all these other States and going to put it in one site. The fact is that nuclear waste is going to remain in these other States, in these 41 States. Because even as we are shipping nuclear waste, and there will be nuclear waste going to Nevada, Members will still end up with nuclear waste at all of these other reactors around the country.

It has even been said to me that this is a national security interest, that nuclear waste at these facilities is dangerous to a terrorist. If that is the case, we should never have built the nuclear power plants in the first place. The other thing is that Yucca Mountain and the temporary storage facility is not going to solve a national security interest problem, because there is

still going to be nuclear waste at these facilities.

The other thing is that the Nuclear Regulatory Commission has said that dry cask storage is good for 100 years. When they were designing the casks to transport this waste they designed a perfect solution. It is the cheapest solution. It only costs about \$300 million to actually store this waste on-site in dry casks for up to 100 years. To transport this waste it costs about \$2.3 billion. For all of us budget hawks around here, we should be thinking about how much does it cost to transport versus store.

I would urge a strong "no" vote. Do not vote with the nuclear power interests.

Mr. HALL of Texas. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I just want to compliment the gentlemen from Nevada, Mr. ENSIGN and Mr. GIBBONS. And of course there is not a better guy in the world than HARRY REID, who has worked hard on this; the gentleman from Nevada, Mr. ENSIGN, only in his third year, and the other gentleman from Nevada, Mr. GIBBONS, in the first year. The die was cast long before they got here. They have done an heroic and admirable job with what they had. I respect them for that.

The Committee on Commerce, the committee of jurisdiction, voted 43 to 3 to carry out the intent of Congress.

Mr. Chairman, I yield the balance of my time to the gentlewoman from Florida [Mrs. THURMAN].

The CHAIRMAN. The gentlewoman from Florida [Mrs. THURMAN] is recognized for 3¼ minutes.

Mrs. THURMAN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, despite some of the statements to the contrary, the bill before us today is about protecting our environment. It is about safeguarding our natural resources, for now and for years to come.

Moreover, it is about dealing with the realities of our society. We depend on nuclear energy and we must address the potential dangers associated with it. This bill would do just that.

There is no question about the importance nuclear power plays in our lives. Nuclear power is a source of energy in our country, producing 20 percent of the Nation's electricity. Although nuclear energy produces a small amount of used fuel, it produces no air pollution. Unfortunately, most of the spent fuel is stored in above-ground pools at the plant sites, where it still remains dangerously radioactive for thousands of years. The reality of the situation is that 75 nuclear power plants currently store used fuel. By next year, 27 of them will exhaust existing space to store this waste. I believe it is in our best interests to ensure that one safe storage facility is developed to meet these very real and pending needs.

Let us safely and efficiently manage this spent fuel. Let us pass H.R. 1270,

and require the Nuclear Regulatory Commission and the Department of Energy to prepare environmental impact statements. Let us ensure radiation standards for the public, and let us make certain that the NRC maintains its strict enforcement of container design essential to the safe transportation of spent nuclear waste across State lines.

The bill is also about our commitment to nuclear waste disposal. Fifteen years ago Federal officials pledged to protect all of us from nuclear waste. Instead, Congress tapped the nuclear waste fund for other projects. We have already invested over \$13 billion to the nuclear waste fund. My constituents alone have paid over \$650 million. It is time that fees dedicated to this fund were spent for their intended purposes.

Almost all of us already have a de facto nuclear storage site closer to home than we care to think. We have the opportunity today to establish a storage facility that would be easier to monitor, more economical, and located at a remote location, far away from our homes and schools.

Members should do what they know is right. Support passage of the Nuclear Waste Policy Act of 1997.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I want to reflect on what the gentleman from Texas [Mr. HALL] had to say about the two Members from Nevada. They have been great on this issue. We know it is not an easy one to try and go forth on, and I just want to say that they have been very much gentlemen in this, and have been ferocious fighters. I have to say that we respect them tremendously.

Mr. Chairman, I yield the balance of my time to close to the gentleman from Michigan [Mr. UPTON], the author of the bill.

The CHAIRMAN. The gentleman from Michigan [Mr. UPTON] is recognized for 3½ minutes.

(Mr. UPTON asked and was given permission to revise and extend his remarks.)

Mr. UPTON. Mr. Chairman, I rise to thank a number of people here tonight. I thank the chairman of our committee, the gentleman from Virginia, [Mr. BLILEY], and the gentleman from Colorado [Mr. DAN SCHAEFER]. Without their leadership, we would not see this bill to the floor this evening.

I also want to thank, on the other side of the aisle, the gentleman from Michigan [Mr. DINGELL], the ranking member, and the gentleman from Texas [Mr. HALL], who have been terrific. I, too, share in thanking the two gentlemen from Nevada, who have been very good debaters, they have been very persistent, they have made us do our homework for sure, and they have been very tough. I appreciate that, as well.

I also thank the gentleman from New York [Mr. TOWNS], my coauthor, the gentleman from Illinois [Mr. HASTERT],

the gentleman from Idaho [Mr. CRAPO], and the 165 Members of the House that have cosponsored the bill. We have heard tonight that it passed our committee 43 to 3. We passed it by about the same margin in the last Congress, as well.

Nuclear power, the decision for nuclear power, was made many decades ago. Part of that strategy was always that the Federal Government would be responsible for the permanent storage of the high-level nuclear waste. That was part of the equation. That is what this bill does. It in essence moves it to one safe place.

Today we have about 100 different nuclear reactor sites around the country. Every single one of them is in a sensitive environmental area, whether it be on the Great Lakes, whether it be on the Chesapeake Bay. Whether it be rivers, streams, or oceans, they are all very sensitive. Our ratepayers have put in some \$12 billion into the Nuclear Waste Trust Fund, of which about \$6 billion has been spent in Yucca Mountain.

Yes, we have detractors, certainly our two colleagues from Nevada, and the opponents of nuclear power as well. But that nuclear decision was made before I was in high school. About 20 percent of our power today comes from nuclear energy, and if we turned off that power tonight, we would still have to deal with the issue of what to do with the high-level nuclear waste. That is what this bill does.

Today in this country we have 10 sites that have run out of room. They have reracked their rods, they have built these lead-lined cement canisters that are literally stacked in the dunes of Lake Michigan and other places around the country, because they have run out of room. They did not have anyplace to put it. Next year we are going to have 27 more reactors run out of room. It is time for this Congress to act, to send it to one safe place.

Yucca Mountain, Mr. Chairman, I have been there. It is adjacent to where we have conducted underground, uncontained nuclear testing for almost 50 years. When this bill gets enacted, and it will, nuclear waste will be in a contained spot. It will be monitored. It is going to be in a place that will be deemed safe by the scientists.

The record shows we have had some 2,400 shipments across the country to the existing nuclear facilities today, and 1,300 tons of nuclear material in fact was shipped without a single release, not a single release of nuclear material in all of those shipments. They did not mine that nuclear stuff in the dunes of Lake Michigan, they had to ship it there. When they shipped it there, the record was perfect.

This is a bipartisan bill. It has been that from the beginning. I thank the Republicans and Democrats, and ask them to vote in favor of this bill.

Mr. Chairman, I rise today in support of H.R. 1270, the Nuclear Waste Policy Act of 1997.

I introduced H.R. 1270 earlier this year with Representatives TOWNS, HASTERT, CRAPO and 55 other original cosponsors. It is designed to address our national problem with high-level nuclear waste by providing workable solutions for managing spent nuclear fuel. The total number of cosponsors has already reached 165 Members of the House. Similar legislation passed the Senate in April by a vote of 65–34.

As a by-product of nuclear power, high-level nuclear waste currently rests in spent fuel pools and canisters at locations across the country. They are not, however, at a secure, central location like our Government agreed to build.

Behind chainlink fences along the Chesapeake, on cement pads a stone's throw from the Great Lakes, near our neighborhoods and our schools, nuclear waste is now a problem forced upon States, counties, and townships due to the Federal Government's blatant shirking of their responsibility—a failure that has cost taxpayers over \$12 billion.

In my district in southwest Michigan, nuclear waste currently sits in a dry cask on a cement pad 100 yards from Lake Michigan. The site is less than 5 miles from an elementary school with 800 students. Now, I will say right away that the site is safe and secure—But it was not meant for long-term storage. I would rather have nuclear waste permanently stored at an isolated and remote location than at over 80 sites around the country.

I have a message to those Members who are concerned about the transportation of spent nuclear fuel; it's been transported for 30 years and according to the Nuclear Regulatory Commission,

The safety record for spent nuclear fuel shipments in the U.S. and in other industrialized nations is enviable. Of the thousands of shipments completed over the last 30 years, none has resulted in an identifiable injury through release of radioactive materials.

NRC statistics show that over 1,300 tons of spent fuel was shipped in the United States from 1979 through 1995. This was accomplished through a mix of shipments on highways and rail.

For a little background, in 1982 Congress passed and the President signed the Nuclear Waste Policy Act. It was later amended in 1987 but its goal remained simple and steamlined—the Federal Government agreed to accept responsibility for the proper management and disposal of defense and civilian nuclear waste. From funds collected through a tax on our electricity bills, the Government was going to build a high level repository and begin accepting waste from utility companies by January 31, 1998.

A lot has happened since the 1980's. But by the same token a lot hasn't happened—namely progress toward completing this project. The Department of Energy has spent time in court, time at the research lab, and time boring a massive hole in the side of Yucca Mountain in Nevada—the site selected to potentially house a permanent repository. Our most recent estimates, however, show this facility won't be ready to receive waste until well into the next century.

Today and tomorrow, Congress will debate a bill that provides a short term solution to this long term problem. The legislation directs the Department of Energy to continue working on

the permanent site while also temporarily stacking the waste outside what is expected to be the final resting place. Our Government should pursue a policy that puts nuclear waste behind one fence, in one location, where we can concentrate all of our resources on making sure it is safe.

Nuclear waste transcends political ideologies. As a nation, we must work together to develop a single national strategy. As a Congress, we must work together to get this solution in place.

With each passing year and each passing month, the price of nuclear waste continues to mount. Ratepayers keep paying taxes on their electricity bills to support the bottomless Nuclear Waste Fund. Without a solution in place, the burden of disposal falls back on the local utility companies, and, in turn, back squarely on the shoulders of the American consumer as they are double taxed.

Earlier this year, the Department of Energy was again assailed in the courts. 46 State agencies and 33 power companies from 36 States filed suit to force the administration to stick to the original deadline which is less than 3 months away. Obviously, we won't meet the deadline but H.R. 1270 offers some solutions because rightly so, everyone is growing tired of these costly delays. In light of these developments, I would urge the Department and the administration to work with us as this legislation moves through the congressional process, rather than throw up roadblocks.

Critics claim that Yucca Mountain is not an appropriate location for nuclear waste. Yucca is located within the Nevada Test Site, an area the size of Connecticut that since the Truman administration has been home to atmospheric nuclear test blasts and countless active and abandoned nuclear labs. Its remote, arid location is, in fact, ideally suited to store nuclear waste.

The real danger exists only in allowing our Government to break its word and expect us to look the other way. But it is difficult to look the other way on this issue when at seemingly every other turn, another community is being forced to deal with nuclear waste close to home. My colleagues and I were sent to Congress to fix the Nation's problems. Through lessons we've learned from events like the savings and loan debacle, we know that inaction only makes the situation worse.

Simply put, nuclear waste is one of the single greatest environmental issues that exist today. In turn, one would assume that it should be the single greatest concern of an administration which has campaigned on its support and defense of the environment.

We can deal effectively with this by placing nuclear waste in a suitable location in the interim. That threat can be greatly reduced still by putting in place a permanent facility. The Department of Energy must be held accountable to the U.S. Congress, and more importantly, to the U.S. taxpayers.

Key groups have come out in support of H.R. 1270 such as the National Association of Counties, Citizens Against Government Waste. Many Governors have written as well to express the need for action on this issue.

I would hope that in the same spirit and bipartisanship that we showed in reaching a balanced budget agreement, we can also move forward in passing nuclear waste legislation this year.

Mr. PACKARD. Mr. Chairman, over 15 years ago, Congress recognized the need to

build a permanent repository to handle our nation's spent nuclear fuel and passed laws directing the Department of Energy to take the lead in this effort. Despite collecting billions of dollars from ratepayers across the nation, the Department of Energy has yet to open even a temporary site where spent nuclear fuel can be safely stored until a permanent facility is built.

Mr. Chairman, it is time for Congress to protect America from harmful nuclear waste by storing it safely. I urge my colleagues to support the Nuclear Waste Policy Act. Passing this important legislation will move us one step closer to eliminating the threat of nuclear contamination in communities across the nation.

Mr. Chairman, some would have us believe that the nuclear waste should remain where it is. But right now, there are over 30,000 tons of radioactive waste stored outside nuclear reactors at over 80 facilities in 41 states. Some sites are dangerously close to fault lines, volcanoes and other areas prone to natural disaster. And almost every one of these sites is within a few miles, sometimes a few yards of somebody's backyard.

Our government has a responsibility to protect its citizens. Until now, the Department of Energy has not fulfilled its obligation. Mr. Chairman, the Nuclear Waste Policy Act will protect America from harmful nuclear waste by moving it to a safe site. I urge my colleagues on both sides of the aisle to support it.

Mr. SHUSTER. Mr. Chairman, I want to clarify the intent of certain provisions of H.R. 1270, the Nuclear Waste Policy Act of 1997, that are within the jurisdiction of the Committee on Transportation and Infrastructure.

A savings clause, section 207, has been included in the manager's amendment which clarifies that H.R. 1270 does not affect the application of existing laws governing transportation of hazardous materials, rail and motor carrier safety and federal-aid highway construction. Under the savings clause, the provisions in Chapter 51 of Title 49, U.S. Code (governing transportation of hazardous materials), Part A of Subtitle V of Title 49, U.S. Code (governing rail safety), Part B of Subtitle VI of Title 49, U.S. Code (governing motor carrier safety) and Title 23, U.S. Code (governing the Federal-Aid Highway program) remain in effect. This savings clause is necessary for a number of reasons. First, the bill funds technical assistance and training on the transportation of nuclear waste to the site and requires the Secretary of Transportation to promulgate new regulations governing transportation of nuclear waste, if he finds that existing regulations are not adequate. Because the existing law and regulations governing transportation of hazardous materials apply to the transportation of nuclear waste, section 207 clarifies that H.R. 1270 does not supplant existing law or regulations. Rather, H.R. 1270 will allow the Secretary of Transportation to exercise his discretion to promulgate regulations only to the extent existing regulations are not adequate.

Second, while the bill makes the employee protection provisions in the rail and motor carrier safety laws applicable to individuals engaged in the interstate transportation of nuclear waste, it does not specify the applicability of other rail or motor carrier safety provisions. Section 207 is, therefore, necessary to clarify that all of the rail and motor carrier safety provisions and not simply the employee

protection provisions are applicable. Third, the bill authorizes the Secretary of Energy to fund road improvements leading to the Yucca Mountain nuclear waste site. Because Title 23 governs construction of Federal-aid highways, section 207 clarifies that Title 23 requirements are applicable to federal-aid roads constructed with funds provided under H.R. 1270.

A provision also was added to the manager's amendment which provides that the Secretary is not required to promulgate new training standards for the transportation of hazardous materials if there already are existing federal regulations that establish adequate training standards. This provision clarifies an ambiguity in section 203(g) of the bill as reported regarding whether the Secretary of Transportation could decide not to promulgate additional regulations in response to this legislation based on a finding that existing Department of Transportation regulations are adequate.

A provision also was added to the manager's amendment which provides that the Secretary of Transportation may specify an appropriate level of knowledge, skills, and prior training for individuals required to be trained in the transportation of hazardous materials instead of a required minimum number of hours of training. The bill as reported required Department of Transportation regulations to specify a minimum number of hours of training for employees and management personnel.

Finally, a provision was added on the selection of rail routes for the transportation of nuclear waste. I am concerned that this provision is less clear than it should be as to the need to consult with the affected rail carriers. I believe that such consultation is a practical necessity anyway, and so I am not objecting to the amendment. It is my hope that this point will be clarified during the conference on the bill.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in support of H.R. 1270, the Nuclear Waste Policy Act of 1997. This legislation is needed for one simple reason, Congress must ensure that the Federal government follows through with its commitment to store nuclear fuel at a central location in the United States.

Without a functioning, centrally located site, this spent nuclear fuel is piling up at sites all around the nation. While spent fuel can be stored permanently in this fashion, utilities are simply running out of room and will soon need more space. And furthermore, having multiple sites raises the safety question.

American ratepayers thought they had a firm contract with the Federal government under the Nuclear Waste Policy Act Amendments of 1987 to start accepting waste in 1998. However, the Department of Energy is nowhere close to keeping its end of the agreement and is at best a decade behind schedule. Forty-six state agencies and thirty-three power companies from thirty-six states have shown their frustration with DOE by filing suit to force DOE to adhere to the original deadline.

This bill moves the stalled process along. It provides for an interim storage facility which will be used until the permanent site at Yucca Mountain is properly tested and ready to accept waste. The sense of Congress is that our government should pursue a policy that puts nuclear waste safely behind one fence, in one location, in one state.

As a member of the Energy and Water Appropriations Subcommittee on Appropriations

which has oversight over the Nuclear Waste Fund, I visited the Yucca Mountain site in March 1997. As I looked out across the vast Nevada desert where the military once exploded atomic bombs, I felt that one central location for storage was the best solution for addressing our high level waste storage problem.

With each passing year and each passing month, the price of storing nuclear waste continues to mount. Ratepayers keep paying taxes on their electricity bills to support the bottomless Nuclear Waste Fund. Without a solution in place, the burden of disposal falls back on the shoulders of the American consumer. Moreover, inaction may create perhaps the largest environmental threat that exists today with more than one hundred sites around the nation instead of one central facility.

We can minimize that threat by placing nuclear waste in a suitable location in the interim, and then moving it to an underground permanent repository in Nevada. This bill provides the leadership we need to accomplish these goals.

Mr. Chairman, I urge my colleagues to support this bill.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of H.R. 1270, the Nuclear Waste Policy Act. Quite simply, the issue of nuclear waste disposal has been delayed far too long. It must be addressed in a responsible manner.

As one of only six Members representing a district with multiple nuclear power plants, this Member certainly recognizes the importance of developing a safe, comprehensive, and long-term approach to the storage of spent nuclear fuel. Maintaining the status quo, with its reliance on on-site storage, is clearly not an acceptable long-term solution. In general, this Member believes that H.R. 1270, as approved by the Commerce Committee, represents a responsible approach.

The bill being considered directs the Department of Energy to begin storing high-level nuclear waste at the Yucca Mountain site in Nevada until a permanent disposal site is developed. H.R. 1270 also makes improvements in safety and transportation issues related to the disposal of nuclear waste.

This legislation is necessary because the Department of Energy has not made acceptable progress on developing a permanent repository for spent nuclear fuel. It is estimated that by 2010, 80 nuclear reactors—including both in Nebraska—will have reached on-site storage capacity.

As a result, if no changes are made, it is likely that consumers would be required to continue contributing to the Nuclear Waste Fund while also paying to develop additional on-site storage space. This would clearly not be reasonable or equitable. This issue is critically important to Nebraska and its nuclear energy consumers, who have already paid more than \$150 million into the Nuclear Waste Fund.

This Member urges his colleagues to support H.R. 1270.

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to express my profound disapproval at the proposed agreement reached by Representative LAMAR SMITH and Representative LINCOLN DIAZ-BALART. This agreement unfairly distinguishes between Central Americans who entered the United States before December 1995 and Guantanamo Haitians who entered the United States during 1991 and 1992.

My disagreement with this proposed legislation is based on the exclusion of the Guantanamo Haitians from the proposed amnesty. It is very shocking to find that this proposed law grants relief to Central Americans, without regard to the plight of those 11,000 Haitians who were admitted to the United States after being processed in Guantanamo in 1991.

One of the arguments used to favor the Central Americans is that they are in the United States for political reasons. I believe this is a similar situation with Guantanamo Haitians who fled Haiti by boat to escape a violent military dictatorship, headed by General Cedras and Michel Francois. Many of them were reportedly killed by this military regime. Those who escaped were intercepted at sea, and were brought to Guantanamo for screening. They were determined to have credible claims for political asylum. Thus, they were permitted to enter the United States based on their credible claims.

Besides the Guantanamo Haitians, many other Haitians escaped to the United States in search of peace and freedom. However, they were sent back to Haiti because they were considered "economic refugees". Today, even the Guantanamo Haitians, those who were determined to be political refugees, may be deported.

Mr. Speaker, there is no legitimate reason to discriminate between the Haitian asylum seekers from the Central American asylum seekers. In my district, which includes a large Haitian constituency, great concern has been expressed that Congress will enact legislation to grandfather Central Americans under the old suspension of deportation provisions to the exclusion of Haitians who are similarly situated.

This proposed legislation is flawed and has a double standard favoring Latinos. I believe that equity require that the law treat similarly situated persons alike. Thus, I would be opposed to any legislation which denies any group equal protection under the law.

Extending to Haitians the same benefits that we extend to Central Americans is the only just thing to do. Therefore, I cannot support this proposed agreement.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Commerce printed in the bill shall be considered as an original bill for the purposes of amendment under the 5-minute rule, and shall be considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1270

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AMENDMENT OF NUCLEAR WASTE POLICY ACT OF 1982.**

*The Nuclear Waste Policy Act of 1982 is amended to read as follows:*

**"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

*"(a) SHORT TITLE.—This Act may be cited as the 'Nuclear Waste Policy Act of 1997'.*

*"(b) TABLE OF CONTENTS.—*

*"Sec. 1. Short title and table of contents.*

*"Sec. 2. Definitions.*

*"Sec. 3. Findings and purposes.*

**"TITLE I—OBLIGATIONS**

*"Sec. 101. Obligations of the Secretary of Energy.*

**"TITLE II—INTEGRATED MANAGEMENT SYSTEM**

*"Sec. 201. Intermodal transfer.*

*"Sec. 202. Transportation planning.*

*"Sec. 203. Transportation requirements.*

*"Sec. 204. Interim storage.*

*"Sec. 205. Permanent disposal.*

*"Sec. 206. Land withdrawal.*

*"Sec. 207. Private storage facilities.*

**"TITLE III—LOCAL RELATIONS**

*"Sec. 301. On-site representative.*

*"Sec. 302. Benefits agreements.*

*"Sec. 303. Content of agreements.*

*"Sec. 304. Acceptance of benefits.*

*"Sec. 305. Restriction on use of funds.*

*"Sec. 306. Initial land conveyances.*

*"Sec. 307. Payments equal to taxes.*

**"TITLE IV—FUNDING AND ORGANIZATION**

*"Sec. 401. Program funding.*

*"Sec. 402. Office of Civilian Radioactive Waste Management.*

*"Sec. 403. Defense contribution.*

**"TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS**

*"Sec. 501. Compliance with other laws.*

*"Sec. 502. Water rights.*

*"Sec. 503. Judicial review of agency actions.*

*"Sec. 504. Licensing of facility expansions and transshipments.*

*"Sec. 505. Siting a second repository.*

*"Sec. 506. Financial arrangements for low-level radioactive waste site closure.*

*"Sec. 507. Nuclear Regulatory Commission training authorization.*

*"Sec. 508. Acceptance schedule.*

*"Sec. 509. Subseabed or ocean water disposal.*

**"TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD**

*"Sec. 601. Definitions.*

*"Sec. 602. Nuclear Waste Technical Review Board.*

*"Sec. 603. Functions.*

*"Sec. 604. Investigatory powers.*

*"Sec. 605. Compensation of members.*

*"Sec. 606. Staff.*

*"Sec. 607. Support services.*

*"Sec. 608. Report.*

*"Sec. 609. Authorization of appropriations.*

*"Sec. 610. Termination of the board.*

**"TITLE VII—MANAGEMENT REFORM**

*"Sec. 701. Management reform initiatives.*

*"Sec. 702. Reporting.*

**"SEC. 2. DEFINITIONS.**

*"For purposes of this Act:*

*"(1) ACCEPT, ACCEPTANCE.—The terms 'accept' and 'acceptance' mean the Secretary's act of taking possession of spent nuclear fuel or high-level radioactive waste.*

*"(2) ACCEPTANCE SCHEDULE.—The term 'acceptance schedule' means the schedule established in section 508 for acceptance of spent nuclear fuel and high-level radioactive waste.*

*"(3) AFFECTED INDIAN TRIBE.—The term 'affected Indian tribe' means any Indian tribe—*

*"(A) within whose reservation boundaries the interim storage facility or a repository for spent nuclear fuel or high-level radioactive waste, or both, is proposed to be located; or*

*"(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of such a facility if the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.*

*"(4) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or interim*

storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

“(5) **ATOMIC ENERGY DEFENSE ACTIVITY.**—The term ‘atomic energy defense activity’ means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

“(A) Naval reactors development.

“(B) Weapons activities including defense industrial confinement fusion.

“(C) Verification and control technology.

“(D) Defense nuclear materials production.

“(E) Defense nuclear waste and materials by-products management.

“(F) Defense nuclear materials security and safeguards and security investigations.

“(G) Defense research and development.

“(6) **CIVILIAN NUCLEAR POWER REACTOR.**—The term ‘civilian nuclear power reactor’ means a civilian nuclear power plant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

“(7) **COMMISSION.**—The term ‘Commission’ means the Nuclear Regulatory Commission.

“(8) **DEPARTMENT.**—The term ‘Department’ means the Department of Energy.

“(9) **DISPOSAL.**—The term ‘disposal’ means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

“(10) **DISPOSAL SYSTEM.**—The term ‘disposal system’ means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

“(11) **ENGINEERED BARRIERS.**—The terms ‘engineered barriers’ and ‘engineered systems and components,’ mean man made components of a disposal system. Such terms include the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste package, and other materials placed over and around such packages.

“(12) **HIGH-LEVEL RADIOACTIVE WASTE.**—The term ‘high-level radioactive waste’ means—

“(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations;

“(B) the highly radioactive material resulting from atomic energy defense activities; and

“(C) any other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation.

“(13) **FEDERAL AGENCY.**—The term ‘Federal agency’ means any Executive agency, as defined in section 105 of title 5, United States Code.

“(14) **INDIAN TRIBE.**—The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

“(15) **INTEGRATED MANAGEMENT SYSTEM.**—The term ‘integrated management system’ means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste.

“(16) **INTERIM STORAGE FACILITY.**—The term ‘interim storage facility’ means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

“(17) **INTERIM STORAGE FACILITY SITE.**—The term ‘interim storage facility site’ means the spe-

cific site within Area 25 of the Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

“(18) **LOW-LEVEL RADIOACTIVE WASTE.**—The term ‘low-level radioactive waste’ means radioactive material that—

“(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

“(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

“(19) **METRIC TONS URANIUM.**—The terms ‘metric tons uranium’ and ‘MTU’ mean the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

“(20) **NUCLEAR WASTE FUND.**—The term ‘Nuclear Waste Fund’ means the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302(c) of the Nuclear Waste Policy Act of 1982.

“(21) **OFFICE.**—The term ‘Office’ means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

“(22) **PACKAGE.**—The term ‘package’ means the primary container that holds, and is in direct contact with, solidified high-level radioactive waste, spent nuclear fuel, or other radioactive materials and any overpack that are emplaced at a repository.

“(23) **PROGRAM APPROACH.**—The term ‘program approach’ means the Civilian Radioactive Waste Management Program Plan, dated May 1996, as modified by this Act, and as amended from time to time by the Secretary in accordance with this Act.

“(24) **REPOSITORY.**—The term ‘repository’ means a system designed and constructed under title II of this Act for the permanent geologic disposal of spent nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

“(25) **SECRETARY.**—The term ‘Secretary’ means the Secretary of Energy.

“(26) **SITE CHARACTERIZATION.**—The term ‘site characterization’ means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

“(27) **SPENT NUCLEAR FUEL.**—The term ‘spent nuclear fuel’ means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

“(28) **STORAGE.**—The term ‘storage’ means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

“(29) **WITHDRAWAL.**—The term ‘withdrawal’ has the same definition as that set forth in the Federal Land Policy and Management Act (43 U.S.C. 1702 et seq.).

“(30) **YUCCA MOUNTAIN SITE.**—The term ‘Yucca Mountain site’ means the area in the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

### “SEC. 3. FINDINGS AND PURPOSES.

“(a) **FINDINGS.**—The Congress finds that—

“(1) while spent nuclear fuel can be safely stored at reactor sites, the expeditious movement to and storage of such spent nuclear fuel at a centralized Federal facility will enhance the nation’s environmental protection;

“(2) while the Federal Government has the responsibility to provide for the centralized interim storage and permanent disposal of spent nuclear fuel and high-level radioactive waste to protect the public health and safety and the environment, the costs of such storage and disposal should be the responsibility of the generators and owners of such waste and fuel, including the Federal Government;

“(3) in the interests of protecting the public health and safety, enhancing the nation’s environmental protection, promoting the nation’s energy security, and ensuring the Secretary’s ability to commence acceptance of spent nuclear fuel and high-level radioactive waste no later than January 31, 2002, it is necessary for Congress to authorize the interim storage facility;

“(4) deficit-control measures designed to limit appropriation of general revenues have limited the availability of the Nuclear Waste Fund for its intended purposes; and

“(5) the Federal Government has the responsibility to provide for the permanent disposal of waste generated from United States atomic energy defense activities.

“(b) **PURPOSES.**—The purposes of this Act are—

“(1) to direct the Secretary to develop an integrated management system in accordance with this Act so that the Department can accept spent nuclear fuel or high-level radioactive waste for interim storage commencing no later than January 31, 2002, and for permanent disposal at a repository commencing no later than January 17, 2010;

“(2) to provide for the siting, construction, and operation of a repository for permanent geologic disposal of spent nuclear fuel and high-level radioactive waste in order to adequately protect the public and the environment;

“(3) to take those actions necessary to ensure that the consumers of nuclear energy, who are funding the Secretary’s activities under this Act, receive the services to which they are entitled and realize the benefits of enhanced protection of public health and safety, and the environment, that will ensue from the Secretary’s compliance with the obligations imposed by this Act; and

“(4) to provide a schedule and process for the expeditious and safe development and commencement of operation of an integrated management system and any necessary modifications to the transportation infrastructure to ensure that the Secretary can commence acceptance of spent nuclear fuel and high-level radioactive waste no later than January 31, 2002.

### “TITLE I—OBLIGATIONS

#### “SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

“(a) **DISPOSAL.**—The Secretary shall develop and operate a repository for the permanent geologic disposal of spent nuclear fuel and high-level radioactive waste.

“(b) **ACCEPTANCE.**—The Secretary shall accept spent nuclear fuel and high-level radioactive waste for storage at the interim storage facility pursuant to section 204 in accordance with the acceptance schedule, beginning not later than January 31, 2002.

“(c) **TRANSPORTATION.**—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary.

“(d) **INTEGRATED MANAGEMENT SYSTEM.**—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practices.



## **"TITLE II—INTEGRATED MANAGEMENT SYSTEM"**

### **"SEC. 201. INTERMODAL TRANSFER."**

"(a) **TRANSPORTATION.**—The Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site. If direct rail access becomes available to the interim storage facility site, the Secretary may use rail transportation to meet the requirements of this title.

"(b) **CAPABILITY DATE.**—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than January 31, 2002.

"(c) **ACQUISITIONS.**—The Secretary shall acquire lands and rights-of-way necessary to commence intermodal transfer at Caliente, Nevada.

"(d) **REPLACEMENTS.**—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and rights-of-way as required to facilitate replacement of land and city wastewater disposal activities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than January 31, 2002.

"(e) **NOTICE AND MAP.**—Within 6 months of the date of enactment of this Act, the Secretary shall—

"(1) publish in the Federal Register a notice containing a legal description of the sites and rights-of-way to be acquired under this section; and

"(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council.

Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in legal descriptions and make minor adjustments in the boundaries.

"(f) **IMPROVEMENTS.**—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

"(g) **HEAVY-HAUL TRANSPORTATION ROUTE.**—

"(1) **DESIGNATION OF ROUTE.**—The route for the heavy-haul truck transport of spent nuclear fuel and high-level radioactive waste shall be as designated in the map dated July 21, 1997 (referred to as 'Heavy-Haul Route') and on file with the Secretary.

"(2) **TRUCK TRANSPORTATION.**—The Secretary, in consultation with the State of Nevada and appropriate counties and local jurisdictions, shall establish reasonable terms and conditions pursuant to which the Secretary may utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from Caliente, Nevada, to the interim storage facility site.

"(3) **IMPROVEMENTS AND MAINTENANCE.**—Notwithstanding any other law—

"(A) the Secretary shall be responsible for any incremental costs related to improving or upgrading Federal, State, and local roads within the heavy-haul transportation route utilized, and performing any maintenance activities on such roads, as necessary, to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste; and

"(B) any such improvement, upgrading, or maintenance activity shall be funded solely by appropriations made pursuant to sections 401 and 403 of this Act.

"(h) **LOCAL GOVERNMENT INVOLVEMENT.**—The Commission shall enter into a Memorandum of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to

the Commission regarding intermodal transfer and to facilitate on-site representation. Reasonable expenses of such representation shall be paid by the Secretary.

### **"SEC. 202. TRANSPORTATION PLANNING."**

"(a) **TRANSPORTATION READINESS.**—The Secretary shall take those actions that are necessary and appropriate to ensure that the Secretary is able to accept and transport spent nuclear fuel and high-level radioactive waste beginning not later than January 31, 2002. As soon as is practicable following the enactment of this Act, the Secretary shall analyze each specific reactor facility in the order of priority established in the acceptance schedule, and develop a logistical plan to assure the Secretary's ability to transport spent nuclear fuel and high-level radioactive waste.

"(b) **TRANSPORTATION PLANNING.**—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility no later than January 31, 2002. Among other things, such planning shall provide a schedule and process for addressing and implementing, as necessary, transportation routing plans, transportation contracting plans, transportation training in accordance with section 203, and transportation tracking programs.

### **"SEC. 203. TRANSPORTATION REQUIREMENTS."**

"(a) **PACKAGE CERTIFICATION.**—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

"(b) **STATE NOTIFICATION.**—The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

"(c) **TECHNICAL ASSISTANCE.**—

"(1) **IN GENERAL.**—The Secretary shall provide technical assistance and funds to States, affected units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste for training for public safety officials of appropriate units of local government. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. The Secretary's duty to provide technical and financial assistance under this subsection shall be limited to amounts specified in annual appropriations.

"(2) **EMPLOYEE ORGANIZATIONS.**—

"(A) **IN GENERAL.**—The Secretary shall provide technical assistance and funds for training directly to nonprofit employee organizations and joint labor-management organizations that demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste or emergency response or post-emergency response with respect to such transportation.

"(B) **TRAINING.**—Training under this paragraph—

"(i) shall cover procedures required for safe routine transportation of materials and procedures for dealing with emergency response situations;

"(ii) shall be consistent with any training standards established by the Secretary of Transportation; and

"(iii) shall include—

"(I) a training program applicable to persons responsible for responding to emergency situa-

tions occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste;

"(II) instruction of public safety officers in procedures for the command and control of the response to any incident involving the waste; and

"(III) instruction of radiological protection and emergency medical personnel in procedures for responding to an incident involving spent nuclear fuel or high-level radioactive waste being transported.

"(3) **GRANTS.**—To implement this subsection, grants shall be made under section 401(c).

"(4) **MINIMIZING DUPLICATION OF EFFORT AND EXPENSES.**—The Secretaries of Transportation, Labor, and Energy, Directors of the Federal Emergency Management Agency and National Institute of Environmental Health Sciences, the Nuclear Regulatory Commission, and Administrator of the Environmental Protection Agency shall review periodically, with the head of each department, agency, or instrumentality of the Government, all emergency response and preparedness training programs of that department, agency, or instrumentality to minimize duplication of effort and expense of the department, agency, or instrumentality in carrying out the programs and shall take necessary action to minimize duplication.

"(d) **USE OF PRIVATE CARRIERS.**—The Secretary, in providing for the transportation of spent nuclear fuel and high-level radioactive waste under this Act, shall by contract use private industry to the fullest extent possible in each aspect of such transportation. The Secretary shall use direct Federal services for such transportation only upon a determination by the Secretary of Transportation, in consultation with the Secretary, that private industry is unable or unwilling to provide such transportation services at a reasonable cost.

"(e) **TRANSFER OF TITLE.**—Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

"(f) **EMPLOYEE PROTECTION.**—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of section 20109 of title 49, United States Code (in the case of employees of railroad carriers), and section 31105 of title 49, United States Code (in the case of employees operating commercial motor vehicles), or the Commission (in the case of all other employees).

"(g) **TRAINING STANDARD.**—

"(1) **REGULATION.**—No later than 12 months after the date of enactment of this Act, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that the employer possess evidence of satisfaction of the applicable training standard before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

"(2) **SECRETARY OF TRANSPORTATION.**—If the Secretary of Transportation determines, in promulgating the regulation required by paragraph (1), that regulations promulgated by the Commission establish adequate training standards for workers, then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall use their Memorandum of Understanding to ensure coordination of



worker training standards and to avoid duplicative regulation.

“(3) TRAINING STANDARDS CONTENT.—The training standards required to be promulgated under paragraph (1) shall, among other things deemed necessary and appropriate by the Secretary of Transportation, include the following provisions—

“(A) a specified minimum number of hours of initial off site instruction and actual field experience under the direct supervision of a trained, experienced supervisor;

“(B) a requirement that onsite managerial personnel receive the same training as workers, and a minimum number of additional hours of specialized training pertinent to their managerial responsibilities; and

“(C) a training program applicable to persons responsible for responding to and cleaning up emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste.

“(4) AUTHORIZATION.—There is authorized to be appropriated to the Secretary of Transportation, from general revenues, such sums as may be necessary to perform his duties under this subsection.

#### “SEC. 204. INTERIM STORAGE.

“(a) AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site. The interim storage facility shall be subject to licensing pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) in accordance with the Commission's regulations governing the licensing of independent spent fuel storage installations and shall commence operation in phases by January 31, 2002. The interim storage facility shall store spent nuclear fuel and high-level radioactive waste until the Secretary is able to transfer such fuel and waste to the repository.

“(b) DESIGN.—The design of the interim storage facility shall provide for the use of storage technologies licensed or certified by the Commission for use at the interim storage facility as necessary to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

“(c) LICENSING.—

“(1) PHASES.—The interim storage facility shall be licensed by the Commission in two phases in order to commence operations no later than January 31, 2002.

“(2) FIRST PHASE.—No later than 12 months after the date of enactment of this Act, the Secretary shall submit to the Commission an application for a license for the first phase of the interim storage facility. The license issued for the first phase of the interim storage facility shall have a term of 20 years. The interim storage facility licensed in the first phase shall have a capacity of not more than 10,000 MTU. The Commission shall issue a final decision granting or denying the application for the first phase license no later than 36 months from the date of the submittal of the application for such license.

“(3) SECOND PHASE.—The Secretary shall submit to the Commission an application for a license for the second phase interim storage facility. The license for the second phase facility shall authorize a storage capacity of 40,000 MTU. The license for the second phase shall have an initial term of up to 100 years, and shall be renewable for additional terms upon application of the Secretary.

“(d) ADDITIONAL AUTHORITY.—

“(1) CONSTRUCTION.—For the purpose of complying with subsection (a), the Secretary may commence site preparation for the interim storage facility as soon as practicable after the date of enactment of this Act and shall commence construction of the first phase of the interim storage facility subsequent to submittal of the li-

cense application except that the Commission shall issue an order suspending such construction at any time if the Commission determines that such construction poses an unreasonable risk to public health and safety or the environment. The Commission shall terminate all or part of such order upon a determination that the Secretary has taken appropriate action to eliminate such risk.

“(2) FACILITY USE.—Notwithstanding any otherwise applicable licensing requirement, the Secretary may utilize any facility owned by the Federal Government on the date of enactment of this Act and within the boundaries of the interim storage facility site, in connection with an imminent and substantial endangerment to public health and safety at the interim storage facility prior to commencement of operations during the second phase.

“(e) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—

“(1) PRELIMINARY DECISIONMAKING ACTIVITIES.—The Secretary's activities under this section, including the selection of a site for the interim storage facility, the preparation and submittal of any license application, and the construction and operation of any facility shall be considered preliminary decisionmaking activities for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or require any environmental review under subparagraph (E) or (F) of such Act.

“(2) ENVIRONMENTAL IMPACT STATEMENT.—

“(A) FINAL DECISION.—A final decision of the Commission to grant or deny a license application for the first or second phase of the interim storage facility shall be accompanied by an Environmental Impact Statement prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). In preparing such Environmental Impact Statement, the Commission—

“(i) shall assume that 40,000 MTU will be stored at the facility; and

“(ii) shall analyze the impacts of the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner.

“(B) CONSIDERATIONS.—Such Environmental Impact Statement shall not consider—

“(i) the need for the interim storage facility, including any individual component thereof;

“(ii) the time of the initial availability of the interim storage facility;

“(iii) any alternatives to the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility;

“(iv) any alternatives to the site of the facility as designated by the Secretary in accordance with subsection (a);

“(v) any alternatives to the design criteria for such facility or any individual component thereof, as specified by the Secretary in the license application; or

“(vi) the environmental impacts of the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility beyond the initial term of the license or the term of the renewal period for which a license renewal application is made.

“(f) JUDICIAL REVIEW.—Judicial review of the Commission's environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be consolidated with judicial review of the Commission's licensing decision. No court shall have jurisdiction to enjoin the construction or operation of the interim storage facility prior to its final decision on review of the Commission's licensing action.

“(g) WASTE CONFIDENCE.—The Secretary's obligation to construct and operate the interim storage facility in accordance with this section and the Secretary's obligation to develop an integrated management system in accordance with

the provisions of this Act, shall provide sufficient and independent grounds for any further findings by the Commission of reasonable assurance that spent nuclear fuel and high-level radioactive waste will be disposed of safely and on a timely basis for purposes of the Commission's decision to grant or amend any license to operate any civilian nuclear power reactor under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

“(h) SAVINGS CLAUSE.—Nothing in this Act shall affect the Commission's procedures for the licensing of any technology for the dry storage of spent nuclear fuel at the site of any civilian nuclear power reactor as adopted by the Commission under section 218 of the Nuclear Waste Policy Act of 1982, as in effect prior to the date of the enactment of this Act. The establishment of such procedures shall not preclude the licensing, under any applicable procedures or rules of the Commission in effect prior to such establishment, of any technology for the storage of civilian spent nuclear fuel at the site of any civilian nuclear power reactor.

#### “SEC. 205. PERMANENT DISPOSAL.

“(a) SITE CHARACTERIZATION.—

“(1) GUIDELINES.—The guidelines promulgated by the Secretary and published at 10 CFR part 960 are annulled and revoked and the Secretary shall make no assumptions or conclusions about the licensability of the Yucca Mountain site as a repository by reference to such guidelines.

“(2) SITE CHARACTERIZATION ACTIVITIES.—The Secretary shall carry out appropriate site characterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization if the Secretary modifies or eliminates those site characterization activities designed to demonstrate the suitability of the site under the guidelines referenced in paragraph (1).

“(3) DATE.—No later than December 31, 2002, the Secretary shall apply to the Commission for authorization to construct a repository that will commence operations no later than January 17, 2010. If, at any time prior to the filing of such application, the Secretary determines that the Yucca Mountain site cannot satisfy the Commission's regulations applicable to the licensing of a geologic repository, the Secretary shall terminate site characterization activities at the site, notify Congress and the State of Nevada of the Secretary's determination and the reasons therefor, and recommend to Congress not later than 6 months after such determination further actions, including the enactment of legislation, that may be needed to manage the Nation's spent nuclear fuel and high-level radioactive waste.

“(4) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository.

“(b) LICENSING.—Within one year of the date of enactment of this Act, the Commission shall amend its regulations governing the disposal of spent nuclear fuel and high-level radioactive waste in geologic repositories to the extent necessary to comply with this Act. Subject to subsection (c), such regulations shall provide for the licensing of the repository according to the following procedures:

“(1) CONSTRUCTION AUTHORIZATION.—The Commission shall grant the Secretary a construction authorization for the repository upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the repository—

“(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

“(B) with adequate protection of the health and safety of the public; and

“(C) consistent with the common defense and security.

“(2) **LICENSE.**—Following substantial completion of construction and the filing of any additional information needed to complete the license application, the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in the repository if the Commission determines that the repository has been constructed and will operate—

“(A) in conformity with the Secretary’s application, the provisions of this Act, and the regulations of the Commission;

“(B) with adequate protection of the health and safety of the public; and

“(C) consistent with the common defense and security.

“(3) **CLOSURE.**—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission’s regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment upon finding that there is reasonable assurance that the repository can be permanently closed—

“(A) in conformity with the Secretary’s application to amend the license, the provisions of this Act, and the regulations of the Commission;

“(B) with adequate protection of the health and safety of the public; and

“(C) consistent with the common defense and security.

“(4) **POST-CLOSURE.**—The Secretary shall take those actions necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

“(A) breaching the repository’s engineered or geologic barriers; or

“(B) increasing the exposure of individual members of the public to radiation beyond the release standard established in subsection (d)(1).

“(c) **MODIFICATION OF REPOSITORY LICENSING PROCEDURE.**—The Commission’s regulations shall provide for the modification of the repository licensing procedure, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of only that quantity of spent nuclear fuel or high-level radioactive waste that is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

“(d) **LICENSING STANDARDS.**—Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency shall not promulgate, by rule or otherwise, standards for protection of the public from releases of radioactive materials or radioactivity from the repository and any such standards existing on the date of enactment of this Act shall not be incorporated in the Commission’s licensing regulations. The Commission’s repository licensing determinations for the protection of the public shall be based solely on a finding whether the repository can be operated in conformance with the overall system performance standard established in paragraph (1)(A) and applied in accordance with the provisions of paragraph (1)(B). The Commission shall amend its regulations in accordance with subsection (b) to incorporate each of the following licensing standards:

“(1) **RELEASE STANDARD.**—

“(A) **ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.**—The standard for protection of the public from release of radioactive material or radioactivity from the repository shall prohibit releases that would expose an average member of the general population in the vicinity of the Yucca Mountain site to an annual dose in excess of 100 millirems unless the Commission, in consultation with the Administrator of the

Environmental Protection Agency, determines by rule that such standard would not provide for adequate protection of the health and safety of the public and establishes by rule another standard which will provide for adequate protection of the health and safety of the public. Such standard shall constitute an overall system performance standard.

“(B) **APPLICATION OF OVERALL SYSTEM PERFORMANCE STANDARD.**—The Commission shall issue the license if it finds reasonable assurance that—

“(i) for the first 1,000 years following the commencement of repository operations, the overall system performance standard will be met based on a deterministic or probabilistic evaluation of the overall performance of the disposal system; and

“(ii) for the period commencing after the first 1,000 years of operation of the repository and terminating at 10,000 years after the commencement of operation of the repository, there is likely to be compliance with the overall system performance standard based on regulatory insight gained through the use of a probabilistic integrated performance model that uses best estimate assumptions, data, and methods.

“(2) **HUMAN INTRUSION.**—The Commission shall assume that, following repository closure, the inclusion of engineered barriers and the Secretary’s post-closure actions at the Yucca Mountain site, in accordance with subsection (b)(3), shall be sufficient to—

“(A) prevent any human activity at the site that poses an unreasonable risk of breaching the repository’s engineered or geologic barriers; and

“(B) prevent any increase in the exposure of individual members of the public to radiation beyond allowable limits as specified in paragraph (1).

“(e) **NATIONAL ENVIRONMENTAL POLICY ACT.**—

“(1) **SUBMISSION OF STATEMENT.**—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall submit an environmental impact statement on the construction and operation of the repository to the Commission with the application for construction authorization.

“(2) **CONSIDERATIONS.**—For purposes of complying with the requirements of the National Environmental Policy Act of 1969 and this section, the Secretary shall not consider in the environmental impact statement the need for the repository, alternative sites for the repository, the time of the initial availability of the repository, or any alternatives to the isolation of spent nuclear fuel and high-level radioactive waste in a repository.

“(3) **ADOPTION BY COMMISSION.**—The Secretary’s environmental impact statement and any supplements thereto shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization under subsection (b)(1), a license under subsection (b)(2), or a license amendment under subsection (b)(3). To the extent such statement or supplement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969, and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). In any such statement prepared with respect to the repository, the Commission shall not consider the need for a repository, the time of initial availability of the repository, alternate sites to the Yucca Mountain site, or nongeologic alternatives to such site.

“(f) **JUDICIAL REVIEW.**—No court shall have jurisdiction to enjoin issuance of the Commis-

sion repository licensing regulations prior to its final decision on review of such regulations.

#### “SEC. 206. LAND WITHDRAWAL.

“(a) **WITHDRAWAL AND RESERVATION.**—

“(1) **WITHDRAWAL.**—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws.

“(2) **JURISDICTION.**—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

“(3) **RESERVATION.**—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository and activities associated with the purposes of this title.

“(b) **LAND DESCRIPTION.**—

“(1) **BOUNDARIES.**—The boundaries depicted on the map entitled ‘Interim Storage Facility Site Withdrawal Map,’ dated July 28, 1995, and on file with the Secretary, are established as the boundaries of the interim storage facility site.

“(2) **BOUNDARIES.**—The boundaries depicted on the map entitled ‘Yucca Mountain Site Withdrawal Map,’ dated July 28, 1995, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

“(3) **NOTICE AND MAPS.**—Within 6 months of the date of enactment of this Act, the Secretary shall—

“(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

“(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

“(4) **NOTICE AND MAPS.**—Concurrent with the Secretary’s application to the Commission for authority to construct the repository, the Secretary shall—

“(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

“(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

“(5) **CONSTRUCTION.**—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

#### “SEC. 207. PRIVATE STORAGE FACILITIES.

“(a) **COMMISSION ACTION.**—Upon application by one or more private entities for a license for an independent spent fuel storage installation not located at the site of a civilian nuclear power reactor, the Commission shall review such license application and issue a license for one or more such facilities at the earliest practicable date, to the extent permitted by the applicable provisions of law and regulation.

“(b) **SECRETARY’S ACTIONS.**—The Secretary shall encourage efforts to develop private facilities for the storage of spent nuclear fuel by providing any requested information and assistance, as appropriate, to the developers of such facilities and to State and local governments and Indian tribes within whose jurisdictions such facilities may be located, and shall cooperate with the developers of such facilities to facilitate compatibility between such facilities and the integrated management system.

“(c) OBLIGATION.—The Secretary shall satisfy the Secretary's obligations under this Act notwithstanding the development of private facilities for the storage of spent nuclear fuel or high-level radioactive waste.

### “TITLE III—LOCAL RELATIONS

#### “SEC. 301. ON-SITE REPRESENTATIVE.

“The Secretary shall offer to Nye County, Nevada, an opportunity to designate a representative to conduct on-site oversight activities at the Yucca Mountain site. Reasonable expenses of such representatives shall be paid by the Secretary.

#### “SEC. 302. BENEFITS AGREEMENTS.

“(a) IN GENERAL.—

“(1) SEPARATE AGREEMENTS.—The Secretary shall offer to enter into separate agreements with Nye County, Nevada, and Lincoln County, Nevada, concerning the integrated management system.

“(2) AGREEMENT CONTENT.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of Nye County, Nevada, and Lincoln County, Nevada.

“(b) AMENDMENT.—An agreement entered into under subsection (a) may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with subsection (c).

“(c) TERMINATION.—The Secretary shall terminate an agreement under subsection (a) if any element of the integrated management system may not be completed.

“(d) LIMITATION.—Only 1 agreement each for Nye County, Nevada, and Lincoln County, Nevada, may be in effect at any one time.

“(e) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

#### “SEC. 303. CONTENT OF AGREEMENTS.

“(a) IN GENERAL.—

“(1) SCHEDULE.—The Secretary, subject to appropriations, shall make payments to the party of a benefits agreement under section 302(a) in accordance with the following schedule:

#### “BENEFITS SCHEDULE

[Amounts in millions]

Event	County
(A) Annual payments prior to first receipt of fuel .....	\$2.5
(B) Upon first spent fuel receipt .....	\$5
(C) Annual payments after first spent fuel receipt until closure of facility .....	\$5

“(2) DEFINITIONS.—For purposes of this section, the term—

“(A) ‘spent fuel’ means high-level radioactive waste or spent nuclear fuel; and

“(B) ‘first spent fuel receipt’ does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

“(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under line (A) of the benefit schedule shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under line (C) of the benefit schedule shall be made on the anniversary date of such first spent fuel receipt.

“(4) REDUCTION.—If the first spent fuel payment under line (B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under line (A) of the benefit schedule, such first spent fuel payment under line (B) of the benefit schedule shall be reduced

by an amount equal to 1/2 of such annual payment under line (A) of the benefit schedule for each full month less than 6 that has not elapsed since the last annual payment under line (A) of the benefit schedule.

“(b) CONTENTS.—A benefits agreement under section 302 shall provide that—

“(1) the parties to the agreement shall share with one another information relevant to the licensing process for the interim storage facility or repository, as it becomes available; and

“(2) the affected unit of local government that is party to such agreement may comment on the development of the integrated management system and on documents required under law or regulations governing the effects of the system on the public health and safety.

“(c) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under section 302 shall constitute a commitment by the United States to make payments in accordance with such agreement.

#### “SEC. 304. ACCEPTANCE OF BENEFITS.

“(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected unit of local government shall not be deemed to be an expression of consent, express, or denied, either under the Constitution of the State of Nevada or any law thereof, to the siting of the interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

“(b) ARGUMENTS.—Neither the United States nor any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or waiver, or consensual involvement, in response to any decision by the State of Nevada, to oppose the siting in Nevada of the interim storage facility or repository premised upon or related to the acceptance or use of benefits under this title.

“(c) LIABILITY.—No liability of any nature shall accrue to be asserted against the State of Nevada, its Governor, any official thereof, or any official of any governmental unit thereof, premised solely upon the acceptance or use of benefits under this title.

#### “SEC. 305. RESTRICTION ON USE OF FUNDS.

“None of the funding provided under section 303 may be used—

“(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

“(2) for litigation purposes; and

“(3) to support multistate efforts or other coalition-building activities inconsistent with the purposes of this Act.

#### “SEC. 306. INITIAL LAND CONVEYANCES.

“(a) CONVEYANCE OF PUBLIC LANDS.—Within 120 days after October 1, 1998, the Secretary of the Interior, or other agency with jurisdiction over the public lands described in subsection (b), shall convey the public lands described in subsection (b) to the appropriate county, unless the county notifies the Secretary of the Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye, County of Lincoln, or the City of Caliente under this subsection that are subject to a Federal grazing permit or a similar federally granted privilege shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the privilege would be able to legally terminate such privilege under the statutes and regulations existing on October 1, 1998, unless the Federal agency, county or city, and the affected holder of the privilege negotiate an agreement that allows for an earlier conveyance, but in no case to occur earlier than October 1, 1998.

“(b) SPECIAL CONVEYANCES.—Subject to valid existing rights and notwithstanding any other

law, the Secretary of the Interior or the head of the other appropriate agency shall convey:

“(1) To the County of Nye, Nevada, the following public lands depicted on the maps dated October 11, 1995, and on file with the Secretary:

“Map 1: Proposed Pahrump Industrial Park Site

“Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site

“Map 3: Pahrump Landfill Sites

“Map 4: Amargosa Valley Regional Landfill Site

“Map 5: Amargosa Valley Municipal Landfill Site

“Map 6: Beatty Landfill/Transfer station Site

“Map 7: Round Mountain Landfill Site

“Map 8: Tonopah Landfill Site

“Map 9: Gabbs Landfill Site.

“(2) To the County of Lincoln, Nevada, the following public lands depicted on the maps dated October 11, 1995, and on file with the Secretary:

“Map 2: Lincoln County, Parcel M, Industrial Park Site, Jointly with the City of Caliente

“Map 3: Lincoln County, Parcels F and G, Mixed Use, Industrial Sites

“Map 4: Lincoln County, Parcels H and I, Mixed Use and Airport Expansion Sites

“Map 5: Lincoln County, Parcels J and K, Mixed Use, Airport and Landfill Expansion Sites

“Map 6: Lincoln County, Parcels E and L, Mixed Use, Airport and Industrial Expansion Sites.

“(3) To the City of Caliente, Nevada, the following public lands depicted on the maps dated October 11, 1995, and on file with the Secretary:

“Map 1: City of Caliente, Parcels A, B, C and D, Community Growth, Landfill Expansion and Community Recreation Sites

“Map 2: City of Caliente, Parcel M, Industrial Park Site, jointly with Lincoln County.

“(c) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The activities of the Secretary and the head of any other Federal agency in connection with subsections (a) and (b) shall be considered preliminary decision making activities. No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

#### “SEC. 307. PAYMENTS EQUAL TO TAXES.

“(a) TAXABLE AMOUNTS.—In addition to financial assistance provided under this title, the Secretary is authorized to grant to any affected Indian tribe or affected unit of local government an amount each fiscal year equal to the amount such affected Indian tribe or affected unit of local government, respectively, would receive if authorized to tax integrated management system activities, as such affected Indian tribe or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such affected unit of local government.

“(b) TERMINATION.—Such grants shall continue until such time as all such activities, development, and operations are terminated at such site.

“(c) ASSISTANCE TO INDIAN TRIBES AND UNITS OF LOCAL GOVERNMENT.—

“(1) PERIOD.—Any affected Indian tribe or affected unit of local government may not receive any grant under subsection (a) after the expiration of the 1-year period following the date on which the Secretary notifies the affected Indian tribe or affected unit of local government of the termination of the operation of the integrated management system.

“(2) ACTIVITIES.—Any affected Indian tribe or affected unit of local government may not

receive any further assistance under this section if the integrated management system activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

#### "TITLE IV—FUNDING AND ORGANIZATION"

##### "SEC. 401. PROGRAM FUNDING."

###### "(a) CONTRACTS.—"

"(1) AUTHORITY OF SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such spent fuel or waste upon the payment of fees in accordance with paragraphs (2) and (3). Except as provided in paragraph (3), fees assessed pursuant to this paragraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended.

###### "(2) ANNUAL FEES.—"

###### "(A) ELECTRICITY.—"

"(i) IN GENERAL.—Under a contract entered into under paragraph (1) there shall be a fee for electricity generated by civilian nuclear power reactors and sold on or after the date of enactment of this Act. The aggregate amount of such fees collected during each fiscal year shall be no greater than the annual level of appropriations for expenditures on the integrated management system for that fiscal year, minus—

"(I) any unobligated balance of fees collected during the previous fiscal year; and

"(II) such appropriations required to be funded by the Federal Government pursuant to section 403.

"(ii) FEE LEVEL.—The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold, except that for the period commencing with fiscal year 1999 and continuing through the fiscal year in which disposal at the repository commences—

"(I) the average annual fee collected under this subparagraph shall not exceed 1.0 mill per-kilowatt hour generated and sold; and

"(II) the fee in any fiscal year in such period shall not exceed 1.5 mill per kilowatt hour generated and sold.

Thereafter, the annual fee collected under this subparagraph shall not exceed 1.0 mill per-kilowatt hour generated and sold. Fees assessed pursuant to this subparagraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended.

"(B) EXPENDITURES IF SHORTFALL.—If, during any fiscal year, the aggregate amount of fees assessed pursuant to subparagraph (A) is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

"(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

"(ii) such appropriations required to be funded by the Federal Government pursuant to section 403,

the Secretary may make expenditures from the Nuclear Waste Fund up to the level of appropriations.

"(C) RULES.—The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

"(3) ONE-TIME FEES.—The one-time fees collected under contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 before the date of enactment of this Act on spent nuclear fuel, or high-level radioactive waste derived from spent nuclear

fuel, which fuel was used to generate electricity in a civilian nuclear power reactor before April 7, 1983, shall be paid to the Nuclear Waste Fund. The Secretary shall collect all such fees before the expiration of fiscal year 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fee referred to in this paragraph and the license shall remain suspended until the full amount of the fee referred to in this paragraph is paid. In paying such a fee, the person delivering such spent nuclear fuel or high-level radioactive wastes, to the Secretary shall have no further financial obligation under this paragraph to the Federal Government for the long-term storage and permanent disposal of such spent nuclear fuel or high-level radioactive waste.

###### "(b) ADVANCE CONTRACTING REQUIREMENT.—"

###### "(1) IN GENERAL.—"

"(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

"(i) such person has entered into a contract under subsection (a) with the Secretary; or

"(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under subsection (a).

"(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

"(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

"(3) ASSIGNMENT.—The rights and duties of a party to a contract entered into under this section may be assignable with transfer of title to the spent nuclear fuel or high-level radioactive waste involved.

"(4) DISPOSAL CONDITION.—No spent nuclear fuel or high-level radioactive waste generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be stored or disposed of by the Secretary at the interim storage facility or repository in the integrated management system developed under this Act unless, in each fiscal year, such department funds its appropriate portion of the costs of such storage and disposal as specified in section 403.

###### "(c) NUCLEAR WASTE FUND.—"

"(1) IN GENERAL.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

"(A) all receipts, proceeds, and recoveries realized by the Secretary before the date of enactment of this Act;

"(B) any appropriations made by the Congress before the date of enactment of this Act to the Nuclear Waste Fund;

"(C) all interest paid on amounts invested by the Secretary of the Treasury under paragraph (3)(B); and

"(D) the one-time fees collected pursuant to subsection (a)(3).

"(2) USE.—The Nuclear Waste Fund shall be used only for purposes of the integrated management system.

###### "(3) ADMINISTRATION OF NUCLEAR WASTE FUND.—"

"(A) IN GENERAL.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

"(B) AMOUNTS IN EXCESS OF CURRENT NEEDS.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

"(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund; and

"(ii) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

"(C) EXEMPTION.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

"(d) USE OF APPROPRIATED FUNDS.—During each fiscal year, the Secretary may make expenditures of funds collected after the date of enactment of this Act under this section and section 403, up to the level of appropriations for that fiscal year pursuant to subsection (f) only for purposes of the integrated management system.

"(e) PROHIBITION ON USE OF APPROPRIATIONS AND NUCLEAR WASTE FUND.—The Secretary shall not make expenditures of funds collected pursuant to this section or section 403 to design or construct packages for the transportation, storage, or disposal of spent nuclear fuel from civilian nuclear power reactors.

###### "(f) APPROPRIATIONS.—"

"(1) BUDGET.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

"(2) APPROPRIATIONS.—Appropriations shall be subject to triennial authorization. During each fiscal year, the Secretary may make expenditures, up to the level of appropriations, out of the funds collected pursuant to this section and section 403, if the Secretary transmits the amounts appropriated for implementation of this Act to the Commission and the Nuclear Waste Technical Review Board in appropriate proportion to the collection of such funds.

"(g) EFFECTIVE DATE.—This section shall take effect October 1, 1998, and section 302 of

the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) shall continue in effect until October 1, 1998.

**"SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.**

"(a) CONTINUATION OF OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.—The Office of Civilian Radioactive Waste Management established under section 304(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of this Act, shall continue in effect subsequent to the date of enactment of this Act.

"(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

"(c) AUDITS.—

"(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

"(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the date of enactment of this Act.

"(3) COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

"(4) TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

"(5) PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

**"SEC. 403. DEFENSE CONTRIBUTION.**

"(a) ALLOCATION.—No later than one year from the date of enactment of this Act, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel, high-level radioactive waste from atomic energy defense activities, and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel, high-level radioactive waste from atomic energy defense activities, and spent nuclear fuel from foreign research reactors shall include—

"(1) an appropriate portion of the costs associated with research and development activities with respect to development of the interim storage facility and repository; and

"(2) interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and

high-level radioactive waste under the contracts.

"(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of materials described in subsection (a).

"(c) REPORT.—In conjunction with the annual report submitted to Congress under section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities, and spent nuclear fuel from foreign research reactors requiring management in the integrated management system.

"(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities as established under subsection (a).

**"TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS**

**"SEC. 501. COMPLIANCE WITH OTHER LAWS.**

"If the requirements of any law are inconsistent with or duplicative of the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act of 1954 and this Act in implementing the integrated management system. Any requirement of a State or political subdivision of a State is preempted if—

"(1) complying with such requirement and a requirement of this Act is impossible; or

"(2) such requirement, as applied or enforced, is an obstacle to accomplishing or carrying out this Act or a regulation under this Act.

**"SEC. 502. WATER RIGHTS.**

"(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

"(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights.

"(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

**"SEC. 503. JUDICIAL REVIEW OF AGENCY ACTIONS.**

"(a) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—

"(1) ORIGINAL AND EXCLUSIVE JURISDICTION.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

"(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

"(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

"(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

"(D) for review of any environmental impact statement prepared or environmental assessment made pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

"(2) VENUE.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia.

"(b) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that the party did not know of the decision or action complained of or of the failure to act, and that a reasonable person acting under the circumstances would not have known of such decision, action, or failure to act, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge of such decision, action, or failure to act.

"(c) APPLICATION OF OTHER LAW.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

**"SEC. 504. LICENSING OF FACILITY EXPANSIONS AND TRANSHIPMENTS.**

"(a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

"(b) ADJUDICATORY HEARING.—

"(1) DESIGNATION.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

"(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

"(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

"(2) DETERMINATION.—In making a determination under this subsection, the Commission—

“(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

“(B) shall not consider—

“(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

“(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless—

“(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

“(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

“(3) APPLICATION.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

“(4) CONSTRUCTION.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

“(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

“(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

“(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

#### **“SEC. 505. SITING A SECOND REPOSITORY.**

“(a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

“(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

#### **“SEC. 506. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.**

“(a) FINANCIAL ARRANGEMENTS.—

“(1) STANDARDS AND INSTRUCTIONS.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement

(as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

“(2) BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

“(b) TITLE AND CUSTODY.—

“(1) AUTHORITY OF SECRETARY.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

“(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

“(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

“(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

“(2) PROTECTION.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

“(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

#### **“SEC. 507. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.**

“The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear powerplant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear powerplant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear power-

plant simulators, and instructional requirements for civilian nuclear powerplant licensee personnel training programs.

#### **“SEC. 508. ACCEPTANCE SCHEDULE.**

“The acceptance schedule shall be implemented in accordance with the following:

“(1) PRIORITY RANKING.—Acceptance priority ranking shall be determined by the Department's ‘Acceptance Priority Ranking’ report.

“(2) ACCEPTANCE RATE.—Except as provided in paragraph (5), the Secretary's acceptance rate for spent nuclear fuel shall be no less than the following: 1,200 MTU in 2002 and 1,200 MTU in 2003, 2,000 MTU in 2004 and 2,000 MTU in 2005, 2,700 MTU in 2006, and 3,000 MTU thereafter.

“(3) OTHER ACCEPTANCES.—In each year, once the Secretary has achieved the annual acceptance rate for spent nuclear fuel from civilian nuclear power reactors established pursuant to the contracts executed under the Nuclear Waste Policy Act of 1982 (as set forth in the Secretary's annual capacity report dated March 1995 (DOE/RW-0457)), the Secretary—

“(A) shall accept from spent nuclear fuel from foreign research reactors and spent nuclear fuel from naval reactors and high-level radioactive waste from atomic energy defense activities, an amount of spent nuclear fuel and high-level radioactive waste which is—

“(i) at least 25 percent of the difference between such annual acceptance rate and the annual rate specified in paragraph (2), or

“(ii) 5 percent of the total amount of spent nuclear fuel and high-level radioactive waste actually accepted,

whichever is higher. If such amount is less than the rate prescribed in the preceding sentence, the Secretary shall accept spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors which have permanently ceased operation; and

“(B) may, additionally, accept any other spent nuclear fuel or high-level radioactive waste.

“(4) EXCEPTION.—If the annual rate under the acceptance schedule is not achieved, the acceptance rate of the Secretary of the materials described in paragraph (3)(A) shall be the greater of the acceptance rate prescribed by paragraph (3) and calculated on the basis of the amount of spent nuclear fuel and high-level radioactive waste actually received or 5 percent of the total amount of spent nuclear fuel and high-level radioactive waste actually accepted.

“(5) ADJUSTMENT.—If the Secretary is unable to begin acceptance by January 31, 2002 at the rate specified in paragraph (2) or if the cumulative amount accepted in any year thereafter is less than that which would have been accepted under the rate specified in paragraph (2), the acceptance schedule shall, to the extent practicable, be adjusted upward such that within 5 years of the start of acceptance by the Secretary—

“(A) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had begun acceptance in 2002; and

“(B) thereafter the acceptance rate is equivalent to the rate that would be in place pursuant to paragraph (2) if the Secretary had commenced acceptance in 2002.

“(6) EFFECT ON SCHEDULE.—The acceptance schedule shall not be affected or modified in any way as a result of the Secretary's acceptance of any material other than contract holders' spent nuclear fuel and high-level radioactive waste.



**"SEC. 509. SUBSEAED OR OCEAN WATER DISPOSAL.**

"Notwithstanding any other provision of law—

"(1) the subseamed or ocean water disposal of spent nuclear fuel or high-level radioactive waste is prohibited; and

"(2) no funds shall be obligated for any activity relating to the subseamed or ocean water disposal of spent nuclear fuel or high-level radioactive waste.

**"TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD****"SEC. 601. DEFINITIONS.**

"For purposes of this title—

"(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

"(2) BOARD.—The term 'Board' means the Nuclear Waste Technical Review Board continued under section 602.

**"SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.**

"(a) CONTINUATION OF NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of this Act, shall continue in effect subsequent to the date of enactment of this Act.

"(b) MEMBERS.—

"(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

"(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

"(3) NATIONAL ACADEMY OF SCIENCES.—

"(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

"(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

"(C) NOMINEES.—

"(i) Each person nominated for appointment to the Board shall be—

"(I) eminent in a field of science or engineering, including environmental sciences; and

"(II) selected solely on the basis of established records of distinguished service.

"(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

"(iii) No person shall be nominated for appointment to the Board who is an employee of—

"(I) the Department of Energy;

"(II) a national laboratory under contract with the Department of Energy; or

"(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

"(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

"(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment, except that a member of the Board whose term has expired may continue

to serve as a member of the Board until such member's successor has taken office.

**"SEC. 603. FUNCTIONS.**

"The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after December 22, 1987, including—

"(1) site characterization activities; and

"(2) activities relating to the packaging or transportation of spent nuclear fuel or high-level radioactive waste.

**"SEC. 604. INVESTIGATORY POWERS.**

"(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(b) PRODUCTION OF DOCUMENTS.—

"(1) RESPONSE TO INQUIRIES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information as may be necessary to respond to any inquiry of the Board under this title.

"(2) EXTENT.—Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

**"SEC. 605. COMPENSATION OF MEMBERS.**

"(a) IN GENERAL.—Each member of the Board shall, subject to appropriations, be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

"(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsistence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

**"SEC. 606. STAFF.**

"(a) CLERICAL STAFF.—

"(1) AUTHORITY OF CHAIRMAN.—Subject to paragraph (2), the Chairman may, subject to appropriations, appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

"(2) PROVISIONS OF TITLE 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

"(b) PROFESSIONAL STAFF.—

"(1) AUTHORITY OF CHAIRMAN.—Subject to paragraphs (2) and (3), the Chairman may, subject to appropriations, appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

"(2) NUMBER.—Not more than 10 professional staff members may be appointed under this subsection.

"(3) TITLE 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

**"SEC. 607. SUPPORT SERVICES.**

"(a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

"(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General, the Librarian of Congress, and the Director of the Office of Technology Assessment shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

"(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

"(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may, subject to appropriations, procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

**"SEC. 608. REPORT.**

"The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations.

**"SEC. 609. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated for expenditures such sums as may be necessary to carry out the provisions of this title.

**"SEC. 610. TERMINATION OF THE BOARD.**

"The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

**"TITLE VII—MANAGEMENT REFORM****"SEC. 701. MANAGEMENT REFORM INITIATIVES.**

"(a) IN GENERAL.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, to the maximum extent practicable, in like manner as a private business.

"(b) SITE CHARACTERIZATION.—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining site characterization effort and to eliminate studies of parameters that are shown not to affect long-term repository performance.

**"SEC. 702. REPORTING.**

"(a) INITIAL REPORT.—Within 180 days of the date of enactment of this Act, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Waste Management System. Such report shall include—

"(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste beginning no later than January 31, 2002, and in accordance with the acceptance schedule;

"(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;



“(3) a detailed description of the Secretary’s contingency plans in the event that the Secretary is unable to meet the planned schedule and timeline; and

“(4) an analysis by the Secretary of its funding needs for fiscal years 1996 through 2001.

“(b) ANNUAL REPORTS.—On each anniversary of the submittal of the report required by subsection (a), the Secretary shall make annual reports to the Congress for the purpose of updating the information contained in such report. The annual reports shall be brief and shall notify the Congress of—

“(1) any modifications to the Secretary’s schedule and timeline for meeting its obligations under this Act;

“(2) the reasons for such modifications, and the status of the implementation of any of the Secretary’s contingency plans; and

“(3) the Secretary’s analysis of its funding needs for the ensuing 5 fiscal years.”.

## SEC. 2. CONTINUATION OF CONTRACTS.

Subsequent to the date of enactment of this Act, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act in accordance with their terms except to the extent that the contracts have been modified by the parties to the contract.

## SECTION 1. AMENDMENT OF NUCLEAR WASTE POLICY ACT OF 1982.

The Nuclear Waste Policy Act of 1982 is amended to read as follows:

### “SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

“(a) SHORT TITLE.—This Act may be cited as the ‘Nuclear Waste Policy Act of 1997’.

“(b) TABLE OF CONTENTS.—

“Sec. 1. Short title and table of contents.

“Sec. 2. Definitions.

“Sec. 3. Findings and purposes.

#### “TITLE I—OBLIGATIONS

“Sec. 101. Obligations of the Secretary of Energy.

#### “TITLE II—INTEGRATED MANAGEMENT SYSTEM

“Sec. 201. Intermodal transfer.

“Sec. 202. Transportation planning.

“Sec. 203. Transportation requirements.

“Sec. 204. Interim storage.

“Sec. 205. Permanent disposal.

“Sec. 206. Land withdrawal.

#### “TITLE III—LOCAL RELATIONS

“Sec. 301. On-site representative.

“Sec. 302. Benefits agreements.

“Sec. 303. Content of agreements.

“Sec. 304. Acceptance of benefits.

“Sec. 305. Restriction on use of funds.

“Sec. 306. Initial land conveyances.

#### “TITLE IV—FUNDING AND ORGANIZATION

“Sec. 401. Program funding.

“Sec. 402. Office of Civilian Radioactive Waste Management.

“Sec. 403. Defense contribution.

#### “TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

“Sec. 501. Compliance with other laws.

“Sec. 502. Water rights.

“Sec. 503. Judicial review of agency actions.

“Sec. 504. Licensing of facility expansions and transshipments.

“Sec. 505. Siting a second repository.

“Sec. 506. Financial arrangements for low-level radioactive waste site closure.

“Sec. 507. Nuclear Regulatory Commission training authorization.

“Sec. 508. Acceptance schedule.

“Sec. 509. Subseabed or ocean water disposal.

“Sec. 510. Compensation.

#### “TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

“Sec. 601. Definitions.

“Sec. 602. Nuclear Waste Technical Review Board.

“Sec. 603. Functions.

“Sec. 604. Investigatory powers.

“Sec. 605. Compensation of members.

“Sec. 606. Staff.

“Sec. 607. Support services.

“Sec. 608. Report.

“Sec. 609. Authorization of appropriations.

“Sec. 610. Termination of the board.

#### “TITLE VII—MANAGEMENT REFORM

“Sec. 701. Management reform initiatives.

“Sec. 702. Reporting.

#### “SEC. 2. DEFINITIONS.

“For purposes of this Act:

“(1) ACCEPT, ACCEPTANCE.—The terms ‘accept’ and ‘acceptance’ mean the Secretary’s act of taking possession of spent nuclear fuel or high-level radioactive waste.

“(2) ACCEPTANCE SCHEDULE.—The term ‘acceptance schedule’ means the schedule established by the Secretary under section 508 for acceptance of spent nuclear fuel and high-level radioactive waste.

“(3) AFFECTED INDIAN TRIBE.—The term ‘affected Indian tribe’ means an Indian tribe—

“(A) whose reservation is surrounded by or borders on an affected unit of local government, or

“(B) whose federally-defined possessory or usage rights to other lands outside of the border of the Indian tribe’s reservation arising out of Congressionally-ratified treaties, may be affected by the locating of an interim storage facility or repository, if the Secretary finds, upon petition of the appropriate government officials of the Indian tribe, that such affects are both substantial and adverse to the Indian tribe.

“(4) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term ‘affected unit of local government’ means the unit of local government with jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

“(5) ATOMIC ENERGY DEFENSE ACTIVITY.—The term ‘atomic energy defense activity’ means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

“(A) Naval reactors development.

“(B) Weapons activities including defense inertial confinement fusion.

“(C) Verification and control technology.

“(D) Defense nuclear materials production.

“(E) Defense nuclear waste and materials byproducts management.

“(F) Defense nuclear materials security and safeguards and security investigations.

“(G) Defense research and development.

“(6) CIVILIAN NUCLEAR POWER REACTOR.—The term ‘civilian nuclear power reactor’ means a civilian nuclear power plant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

“(7) COMMISSION.—The term ‘Commission’ means the Nuclear Regulatory Commission.

“(8) DEPARTMENT.—The term ‘Department’ means the Department of Energy.

“(9) DISPOSAL.—The term ‘disposal’ means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

“(10) DISPOSAL SYSTEM.—The term ‘disposal system’ means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

“(11) ENGINEERED BARRIERS.—The term ‘engineered barriers’ and ‘engineered systems and components,’ means man made compo-

nents of a disposal system. Such term includes the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste, and other materials placed over and around such packages.

“(12) HIGH-LEVEL RADIOACTIVE WASTE.—The term ‘high-level radioactive waste’ means—

“(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations;

“(B) the highly radioactive material resulting from atomic energy defense activities; and

“(C) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation.

“(13) FEDERAL AGENCY.—The term ‘Federal agency’ means any Executive agency, as defined in section 105 of title 5, United States Code.

“(14) INDIAN TRIBE.—The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

“(15) INTEGRATED MANAGEMENT SYSTEM.—The term ‘integrated management system’ means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste.

“(16) INTERIM STORAGE FACILITY.—The term ‘interim storage facility’ means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

“(17) INTERIM STORAGE FACILITY SITE.—The term ‘interim storage facility site’ means the specific site within Area 25 of the Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

“(18) LOW-LEVEL RADIOACTIVE WASTE.—The term ‘low-level radioactive waste’ means radioactive material that—

“(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or by-product material as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

“(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

“(19) METRIC TONS URANIUM.—The terms ‘metric tons uranium’ and ‘MTU’ means the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

“(20) NUCLEAR WASTE FUND.—The terms ‘Nuclear Waste Fund’ and ‘waste fund’ mean the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302(c) of the Nuclear Waste Policy Act of 1982.

“(21) OFFICE.—The term ‘Office’ means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

“(22) PROGRAM APPROACH.—The term ‘program approach’ means the Civilian Radioactive Waste Management Program Plan, dated May 1996, as modified by this Act, and

as amended from time to time by the Secretary in accordance with this Act.

“(23) REPOSITORY.—The term ‘repository’ means a system designed and constructed under title II of this Act for the permanent geologic disposal of spent nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

“(24) SECRETARY.—The term ‘Secretary’ means the Secretary of Energy.

“(25) SITE CHARACTERIZATION.—The term ‘site characterization’ means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

“(26) SPENT NUCLEAR FUEL.—The term ‘spent nuclear fuel’ means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

“(27) STORAGE.—The term ‘storage’ means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

“(28) WITHDRAWAL.—The term ‘withdrawal’ has the same definition as that set forth in the Federal Land Policy and Management Act (43 U.S.C. 1702 and following).

“(29) YUCCA MOUNTAIN SITE.—The term ‘Yucca Mountain site’ means the area in the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

### “SEC. 3. FINDINGS AND PURPOSES.

“(a) FINDINGS.—The Congress finds that—

“(1) while spent nuclear fuel can be safely stored at reactor sites, the expeditious movement to and storage of such spent nuclear fuel at a centralized Federal facility will enhance the nation’s environmental protection;

“(2) while the Federal Government has the responsibility to provide for the centralized interim storage and permanent disposal of spent nuclear fuel and high-level radioactive waste to protect the public health and safety and the environment, the costs of such storage and disposal should be the responsibility of the generators and owners of such waste and fuel, including the Federal Government;

“(3) in the interests of protecting the public health and safety, enhancing the nation’s environmental protection, promoting the nation’s energy security, and ensuring the Secretary’s ability to commence acceptance of spent nuclear fuel and high-level radioactive waste no later than January 31, 2000, it is necessary for Congress to authorize the interim storage facility;

“(4) deficit-control measures designed to limit appropriation of general revenues have limited the availability of the Nuclear Waste Fund for its intended purposes; and

“(5) the Federal Government has the responsibility to provide for the permanent disposal of waste generated from United States atomic energy defense activities.

“(b) PURPOSES.—The purposes of this Act are—

“(1) to direct the Secretary to develop an integrated management system in accordance with this Act so that the Department

can accept spent nuclear fuel or high-level radioactive waste for interim storage commencing no later than January 31, 2000, and for permanent disposal at a repository commencing no later than January 17, 2010;

“(2) to provide for the siting, construction, and operation of a repository for permanent geologic disposal of spent nuclear fuel and high-level radioactive waste in order to adequately protect the public and the environment;

“(3) to take those actions necessary to ensure that the consumers of nuclear energy, who are funding the Secretary’s activities under this Act, receive the services to which they are entitled and realize the benefits of enhanced protection of public health and safety, and the environment, that will ensue from the Secretary’s compliance with the obligations imposed by this Act; and

“(4) to provide a schedule and process for the expeditious and safe development and commencement of operation of an integrated management system and any necessary modifications to the transportation infrastructure to ensure that the Secretary can commence acceptance of spent nuclear fuel and high-level radioactive waste no later than January 31, 2000.

### “TITLE I—OBLIGATIONS

#### “SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

“(a) DISPOSAL.—The Secretary shall develop and operate a repository for the permanent geologic disposal of spent nuclear fuel and high-level radioactive waste.

“(b) ACCEPTANCE.—The Secretary shall accept spent nuclear fuel and high-level radioactive waste for storage at the interim storage facility pursuant to section 204 in accordance with the acceptance schedule established under section 508, beginning not later than January 31, 2000.

“(c) TRANSPORTATION.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary.

“(d) INTEGRATED MANAGEMENT SYSTEM.—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practices in accordance with title VII of this Act.

#### “TITLE II—INTEGRATED MANAGEMENT SYSTEM

##### “SEC. 201. INTERMODAL TRANSFER.

“(a) BEFORE RAIL ACCESS.—Until such time as direct rail access is available to the interim storage facility site, the Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site.

“(b) CAPABILITY DATE.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than January 31, 2000.

“(c) ACQUISITIONS.—The Secretary shall acquire lands and rights-of-way necessary to commence intermodal transfer at Caliente, Nevada.

“(d) REPLACEMENTS.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and rights-of-way as required to facilitate replacement of land and city wastewater disposal activities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than January 31, 2000.

“(e) NOTICE AND MAP.—Within 6 months of the date of enactment of this Act, the Secretary shall—

“(1) publish in the Federal Register a notice containing a legal description of the

sites and rights-of-way to be acquired under this section; and

“(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council.

Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors and legal descriptions and make minor adjustments in the boundaries.

“(f) IMPROVEMENTS.—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

#### “(g) HEAVY-HAUL TRANSPORTATION ROUTE.—

“(1) DESIGNATION OF ROUTE.—The route for the heavy-haul truck transport of spent nuclear fuel and high-level radioactive waste shall be as designated in the map (entitled ‘Heavy-Haul Route’ and on file with the Secretary).

“(2) TRUCK TRANSPORTATION.—The Secretary, in consultation with the State of Nevada and appropriate counties and local jurisdictions, shall establish reasonable terms and conditions pursuant to which the Secretary may utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from Caliente, Nevada, to the interim storage facility site.

“(3) IMPROVEMENTS AND MAINTENANCE.—Notwithstanding any other law—

“(A) the Secretary shall be responsible for any incremental costs related to improving or upgrading Federal, State, and local roads within the heavy-haul transportation route utilized, and performing any maintenance activities on such roads, as necessary, to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste; and

“(B) any such improvement, upgrading, or maintenance activity shall be funded solely by appropriations made pursuant to sections 401 and 403 of this Act.

“(h) LOCAL GOVERNMENT INVOLVEMENT.—The Commission shall enter into a Memorandum of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to the Commission regarding intermodal transfer and to facilitate on-site representation.

“(i) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The Secretary’s activities in connection with the development of intermodal transfer capability, and upgrading and improvements to, and maintenance of, the roads within the heavy-haul transportation route shall be considered preliminary decisionmaking activities. Such activities shall not require the preparation of an environmental impact statement under section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

“(j) REGULATION.—Notwithstanding any other law, the Secretary’s movement of spent nuclear fuel and high-level radioactive waste by heavy-haul transport route pursuant to this subsection shall be subject to exclusive regulation by the Secretary of Transportation and the Commission in accordance with regulatory authority under the provisions of this Act, chapter 51 of title 49, United States Code (relating to the transportation of hazardous materials), and the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

**"SEC. 202. TRANSPORTATION PLANNING.**

"(a) TRANSPORTATION READINESS.—The Secretary shall take those actions that are necessary and appropriate to ensure that the Secretary is able to accept spent nuclear fuel and high-level radioactive waste beginning not later than January 31, 2000, and transport such fuel or waste to mainline transportation facilities. As soon as is practicable following the enactment of this Act, the Secretary shall analyze each specific reactor facility in the order of priority established in the acceptance schedule under section 508, and develop a logistical plan to assure the Secretary's ability to transport spent nuclear fuel and high-level radioactive waste.

"(b) TRANSPORTATION PLANNING.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility no later than January 31, 2000. Among other things, such planning shall provide a schedule and process for addressing and implementing, as necessary, transportation routing plans, transportation contracting plans, transportation training in accordance with section 203, and transportation tracking programs.

**"SEC. 203. TRANSPORTATION REQUIREMENTS.**

"(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

"(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

**"(c) TECHNICAL ASSISTANCE.—**

"(1) IN GENERAL.—The Secretary shall provide technical assistance and funds to States, affected units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste for training for public safety officials of appropriate units of local government. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. The Secretary's duty to provide technical and financial assistance under this subsection shall be limited to amounts specified in annual appropriations.

"(2) MINIMIZING DUPLICATION OF EFFORT AND EXPENSES.—The Secretaries of Transportation, Labor, and Energy, Directors of the Federal Emergency Management Agency and National Institute of Environmental Health Sciences, Chairman of the Nuclear Regulatory Commission, and Administrator of the Environmental Protection Agency shall review periodically, with the head of each department, agency, or instrumentality of the Government, all emergency response and preparedness training programs of that department, agency, or instrumentality to minimize duplication of effort and expense of the department, agency, or instrumentality in carrying out the programs and shall take necessary action to minimize duplication.

"(d) USE OF PRIVATE CARRIERS.—The Secretary, in providing for the transportation of spent nuclear fuel and high level radioactive waste under this Act, shall by contract use private industry to the fullest extent possible in each aspect of such transportation.

The Secretary shall use direct Federal services for such transportation only upon a determination by the Secretary of Transportation, in consultation with the Secretary, that private industry is unable or unwilling to provide such transportation services at a reasonable cost.

"(e) TRANSFER OF TITLE.—Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

**"SEC. 204. INTERIM STORAGE.**

"(a) AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site. The interim storage facility shall be subject to licensing pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) in accordance with the Commission's regulations governing the licensing of independent spent fuel storage installations and shall commence operation in phases by January 31, 2000.

"(b) DESIGN.—The design of the interim storage facility shall provide for the use of storage technologies licensed or certified by the Commission for use at the interim storage facility as necessary to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

**"(c) LICENSING.—**

"(1) PHASES.—The interim storage facility shall be licensed by the Commission in two phases in order to commence operations no later than January 31, 2000.

"(2) FIRST PHASE.—No later than 12 months after the date of enactment of this Act, the Secretary shall submit to the Commission an application for a license for the first phase of the interim storage facility. The license issued for the first phase of the interim storage facility shall have a term of 20 years. The interim storage facility licensed in the first phase shall have a capacity of not more than 10,000 MTU. The Commission shall issue a final decision granting or denying the application for the first phase license no later than 16 months from the date of the submittal of the application for such license.

"(3) SECOND PHASE.—Upon the issuance of the license for the first phase of the interim storage facility under paragraph (2), the Secretary shall submit to the Commission an application for a license for the second phase interim storage facility. The license for the second phase facility shall authorize a storage capacity of 40,000 MTU. The license for the second phase shall have an initial term of up to 100 years, and shall be renewable for additional terms upon application of the Secretary.

**"(d) ADDITIONAL AUTHORITY.—**

"(1) CONSTRUCTION.—For the purpose of complying with subsection (a), the Secretary may commence site preparation for the interim storage facility as soon as practicable after the date of enactment of this Act and shall commence construction of the first phase of the interim storage facility subsequent to submittal of the license application except that the Commission shall issue an order suspending such construction at any time if the Commission determines that such construction poses an unreasonable risk to public health and safety or the environment. The Commission shall terminate all or part of such order upon a determination that the Secretary has taken appropriate action to eliminate such risk.

"(2) FACILITY USE.—Notwithstanding any otherwise applicable licensing requirement, the Secretary may utilize any facility owned by the Federal Government on the date of

enactment of this Act and within the boundaries of the interim storage facility site, in connection with an imminent and substantial endangerment to public health and safety at the interim storage facility prior to commencement of operations during the second phase.

**"(3) ACCEPTANCE OF FUEL AND WASTE.—**

"(A) GENERAL RULE.—In each year, once the Secretary has achieved the annual acceptance rate for spent nuclear fuel from civilian nuclear power reactors established pursuant to the contracts executed under the Nuclear Waste Policy Act of 1982 (as set forth in the Secretary's annual capacity report dated March 1995 (DOE/RW-0457)), the Secretary—

"(i) may, additionally, accept spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors which have permanently ceased operation; and

"(ii) except as provided in subparagraph (B), shall accept at least 25 percent of the difference between such annual acceptance rate and the annual rate under the acceptance schedule established under section 508 for spent nuclear fuel from civilian power reactors of—

"(I) spent nuclear fuel from foreign research reactors; and

"(II) spent nuclear fuel from naval reactors and high-level radioactive waste from atomic energy defense activities.

"(B) EXCEPTION.—If the annual rate under the acceptance schedule established under section 508 is not achieved, the acceptance rate of the Secretary of the materials described in subclauses (I) and (II) of subparagraph (A)(ii) shall be the greater of the acceptance rate prescribed by subparagraph (A) and calculated on the basis of the amount of spent nuclear fuel and high-level radioactive waste actually received or 5 percent of the total amount of spent nuclear fuel and high-level radioactive waste actually accepted.

**"(e) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—**

"(1) PRELIMINARY DECISIONMAKING ACTIVITIES.—The Secretary's activities under this section, including the selection of a site for the interim storage facility, the preparation and submittal of any license application, and the construction and operation of any facility shall be considered preliminary decision-making activities for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or require any environmental review under subparagraph (E) or (F) of such Act.

**"(2) ENVIRONMENTAL IMPACT STATEMENT.—**

"(A) FINAL DECISION.—A final decision of the Commission to grant or deny a license application for the first or second phase of the interim storage facility shall be accompanied by an Environmental Impact Statement prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). In preparing such Environmental Impact Statement, the Commission—

"(i) shall assume that 40,000 MTU will be stored at the facility;

"(ii) shall analyze the impacts of the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner; and

"(iii) shall consider the results of the study by the National Academy of Sciences on the migration of plutonium at the Nevada test site.

"(B) CONSIDERATIONS.—Such Environmental Impact Statement shall not consider—

“(i) the need for the interim storage facility, including any individual component thereof;

“(ii) the time of the initial availability of the interim storage facility;

“(iii) any alternatives to the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility;

“(iv) any alternatives to the site of the facility as designated by the Secretary in accordance with subsection (a);

“(v) any alternatives to the design criteria for such facility or any individual component thereof, as specified by the Secretary in the license application; or

“(vi) the environmental impacts of the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility beyond the initial term of the license or the term of the renewal period for which a license renewal application is made.

“(f) JUDICIAL REVIEW.—Judicial review of the Commission's environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be consolidated with judicial review of the Commission's licensing decision. No court shall have jurisdiction to enjoin the construction or operation of the interim storage facility prior to its final decision on review of the Commission's licensing action.

“(g) WASTE CONFIDENCE.—The Secretary's obligation to construct and operate the interim storage facility in accordance with this section and the Secretary's obligation to develop an integrated management system in accordance with the provisions of this Act, shall provide sufficient and independent grounds for any further findings by the Commission of reasonable assurance that spent nuclear fuel and high-level radioactive waste will be disposed of safely and on a timely basis for purposes of the Commission's decision to grant or amend any license to operate any civilian nuclear power reactor under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

“(h) SAVINGS CLAUSE.—Nothing in this Act shall affect the Commission's procedures for the licensing of any technology for the dry storage of spent nuclear fuel at the site of any civilian nuclear power reactor as adopted by the Commission under section 218 of the Nuclear Waste Policy Act of 1982, as in effect prior to the enactment of the Nuclear Waste Policy Act of 1997. The establishment of such procedures shall not preclude the licensing, under any applicable procedures or rules of the Commission in effect prior to such establishment, of any technology for the storage of civilian spent nuclear fuel at the site of any civilian nuclear power reactor.

#### “SEC. 205. PERMANENT DISPOSAL.

“(a) SITE CHARACTERIZATION.—

“(1) GUIDELINES.—The guidelines promulgated by the Secretary and published at 10 CFR part 960 are annulled and revoked and the Secretary shall make no assumptions or conclusions about the licensability of the Yucca Mountain site as a repository by reference to such guidelines.

“(2) SITE CHARACTERIZATION ACTIVITIES.—The Secretary shall carry out appropriate site characterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization if the Secretary modifies or eliminates those site characterization activities designed to demonstrate the suitability of the site under the guidelines referenced in paragraph (1).

“(3) DATE.—No later than December 31, 2002, the Secretary shall apply to the Commission for authorization to construct a repository that will commence operations no later than January 17, 2010. If, at any time

prior to the filing of such application, the Secretary determines that the Yucca Mountain site cannot satisfy the Commission's regulations applicable to the licensing of a geologic repository, the Secretary shall terminate site characterization activities at the site, notify Congress and the State of Nevada of the Secretary's determination and the reasons therefor, and recommend to Congress not later than 6 months after such determination further actions, including the enactment of legislation, that may be needed to manage the Nation's spent nuclear fuel and high-level radioactive waste.

“(4) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository.

“(b) LICENSING.—Within one year of the date of enactment of this Act, the Commission shall amend its regulations governing the disposal of spent nuclear fuel and high-level radioactive waste in geologic repositories to the extent necessary to comply with this Act. Subject to subsection (c), such regulations shall provide for the licensing of the repository according to the following procedures:

“(1) CONSTRUCTION AUTHORIZATION.—The Commission shall grant the Secretary a construction authorization for the repository upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the repository—

“(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

“(B) without unreasonable risk to the health and safety of the public; and

“(C) consistent with the common defense and security.

“(2) LICENSE.—Following substantial completion of construction and the filing of any additional information needed to complete the license application, the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in the repository if the Commission determines that the repository has been constructed and will operate—

“(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

“(B) without unreasonable risk to the health and safety of the public; and

“(C) consistent with the common defense and security.

“(3) CLOSURE.—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission's regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment upon finding that there is reasonable assurance that the repository can be permanently closed—

“(A) in conformity with the Secretary's application to amend the license, the provisions of this Act, and the regulations of the Commission;

“(B) without unreasonable risk to the health and safety of the public; and

“(C) consistent with the common defense and security.

“(4) POST-CLOSURE.—The Secretary shall take those actions necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

“(A) breaching the repository's engineered or geologic barriers; or

“(B) increasing the exposure of individual members of the public to radiation beyond the release standard established in subsection (d)(1).

“(c) MODIFICATION OF REPOSITORY LICENSING PROCEDURE.—The Commission's regulations shall provide for the modification of the repository licensing procedure, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of only that quantity of spent nuclear fuel or high-level radioactive waste that is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

“(d) LICENSING STANDARDS.—Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency shall not promulgate, by rule or otherwise, standards for protection of the public from releases of radioactive materials or radioactivity from the repository and any such standards existing on the date of enactment of this Act shall not be incorporated in the Commission's licensing regulations. The Commission's repository licensing determinations for the protection of the public shall be based solely on a finding whether the repository can be operated in conformance with the overall system performance standard established in paragraph (1)(A) and applied in accordance with the provisions of paragraph (1)(B). The Commission shall amend its regulations in accordance with subsection (b) to incorporate each of the following licensing standards:

“(1) RELEASE STANDARD.—

“(A) ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.—The standard for protection of the public from release of radioactive material or radioactivity from the repository shall prohibit releases that would expose an average member of the general population in the vicinity of the Yucca Mountain site to an annual dose in excess of 100 millirems unless the Commission determines by rule that such standard would constitute an unreasonable risk to health and safety and establishes by rule another standard which will protect health and safety. Such standard shall constitute an overall system performance standard.

“(B) APPLICATION OF OVERALL SYSTEM PERFORMANCE STANDARD.—The Commission shall issue the license if it finds reasonable assurance that—

“(i) for the first 1,000 years following the commencement of repository operations, the overall system performance standard will be met based on a deterministic or probabilistic evaluation of the overall performance of the disposal system; and

“(ii) for the period commencing after the first 1,000 years of operation of the repository and terminating at 10,000 years after the commencement of operation of the repository, there is likely to be compliance with the overall system performance standard based on regulatory insight gained through the use of a probabilistic integrated performance model that uses best estimate assumptions, data, and methods.

“(2) HUMAN INTRUSION.—The Commission shall assume that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure actions at the Yucca Mountain site, in accordance with subsection (b)(3), shall be sufficient to—

“(A) prevent any human activity at the site that poses an unreasonable risk of breaching the repository's engineered or geologic barriers; and

“(B) prevent any increase in the exposure of individual members of the public to radiation beyond allowable limits as specified in paragraph (1).

“(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

“(1) SUBMISSION OF STATEMENT.—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall submit an environmental impact statement on the construction and operation of the repository to the Commission with the application for construction authorization.

“(2) CONSIDERATIONS.—For purposes of complying with the requirements of the National Environmental Policy Act of 1969 and this section, the Secretary shall not consider in the environmental impact statement the need for the repository, alternative sites or designs for the repository, the time of the initial availability of the repository, or any alternatives to the isolation of spent nuclear fuel and high-level radioactive waste in a repository.

“(3) ADOPTION BY COMMISSION.—The Secretary's environmental impact statement and any supplements thereto shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization under subsection (b)(1), a license under subsection (b)(2), or a license amendment under subsection (b)(3). To the extent such statement or supplement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969, and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). In any such statement prepared with respect to the repository, the Commission shall not consider the need for a repository, the time of initial availability of the repository, alternate sites to the Yucca Mountain site, or nongeologic alternatives to such site.

“(f) JUDICIAL REVIEW.—No court shall have jurisdiction to enjoin issuance of the Commission repository licensing regulations prior to its final decision on review of such regulations.

#### “SEC. 206. LAND WITHDRAWAL.

“(a) WITHDRAWAL AND RESERVATION.—

“(1) WITHDRAWAL.—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws. Withdrawal under this paragraph shall expire at the beginning of the year 2012 if the interim storage facility site is not used in accordance with section 204(c)(2) and other provisions of this Act. After the expiration of the withdrawal, the sites will return to the Federal agency which had jurisdiction over them before the withdrawal and for the purposes previously used.

“(2) JURISDICTION.—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

“(3) RESERVATION.—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository

and activities associated with the purposes of this title.

“(b) LAND DESCRIPTION.—

“(1) BOUNDARIES.—The boundaries depicted on the map entitled ‘Interim Storage Facility Site Withdrawal Map,’ dated July 28, 1995, and on file with the Secretary, are established as the boundaries of the Interim Storage Facility site.

“(2) BOUNDARIES.—The boundaries depicted on the map entitled ‘Yucca Mountain Site Withdrawal Map,’ dated July 28, 1995, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

“(3) NOTICE AND MAPS.—Within 6 months of the date of enactment of this Act, the Secretary shall—

“(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

“(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

“(4) NOTICE AND MAPS.—Concurrent with the Secretary's application to the Commission for authority to construct the repository, the Secretary shall—

“(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

“(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

“(5) CONSTRUCTION.—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

### “TITLE III—LOCAL RELATIONS

#### “SEC. 301. ON-SITE REPRESENTATIVE.

The Secretary shall offer to Nye County, Nevada, an opportunity to designate a representative to conduct on-site oversight activities at such site. Reasonable expenses of such representatives shall be paid by the Secretary.

#### “SEC. 302. BENEFITS AGREEMENTS.

“(a) IN GENERAL.—

“(1) SEPARATE AGREEMENTS.—The Secretary shall offer to enter into separate agreements with Nye County, Nevada, and Lincoln County, Nevada, concerning the integrated management system.

“(2) AGREEMENT CONTENT.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of Nye County, Nevada, and Lincoln County, Nevada.

“(b) AMENDMENT.—An agreement entered into under subsection (a) may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with subsection (c).

“(c) TERMINATION.—The Secretary shall terminate an agreement under subsection (a) if any element of the integrated management system may not be completed.

“(d) LIMITATION.—Only 1 agreement each for Nye County, Nevada, and Lincoln County, Nevada, may be in effect at any one time.

“(e) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

#### “SEC. 303. CONTENT OF AGREEMENTS.

“(a) IN GENERAL.—

“(1) SCHEDULE.—The Secretary shall make payments to the party of a benefits agreement under section 302(a) in accordance with the following schedule:

#### “BENEFITS SCHEDULE

(Amounts in millions)

Event	County
(A) Annual payments prior to first receipt of fuel .....	\$2.5
(B) Upon first spent fuel receipt .....	\$5
(C) Annual payments after first spent fuel receipt until closure of facility .....	\$5

“(2) DEFINITIONS.—For purposes of this section, the term—

“(A) ‘spent fuel’ means high-level radioactive waste or spent nuclear fuel; and

“(B) ‘first spent fuel receipt’ does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

“(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under line (A) of the benefit schedule shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under line (C) of the benefit schedule shall be made on the anniversary date of such first spent fuel receipt.

“(4) REDUCTION.—If the first spent fuel payment under line (B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under line (A) of the benefit schedule, such first spent fuel payment under line (B) of the benefit schedule shall be reduced by an amount equal to 1/2 of such annual payment under line (A) of the benefit schedule for each full month less than 6 that has not elapsed since the last annual payment under line (A) of the benefit schedule.

“(b) CONTENTS.—A benefits agreement under section 302 shall provide that—

“(1) the parties to the agreement shall share with one another information relevant to the licensing process for the interim storage facility or repository, as it becomes available; and

“(2) the affected unit of local government that is party to such agreement may comment on the development of the integrated management system and on documents required under law or regulations governing the effects of the system on the public health and safety.

“(c) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under section 302 shall constitute a commitment by the United States to make payments in accordance with such agreement.

#### “SEC. 304. ACCEPTANCE OF BENEFITS.

“(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected unit of local government shall not be deemed to be an expression of consent, express, or denied, either under the Constitution of the State of Nevada or any law thereof, to the siting of the interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

“(b) ARGUMENTS.—Neither the United States nor any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or waiver, or consensual involvement, in response to any decision by the State of Nevada, to oppose the siting in Nevada of the interim storage facility or repository premised upon or related to the acceptance or use of benefits under this title.

“(c) LIABILITY.—No liability of any nature shall accrue to be asserted against the State

of Nevada, its Governor, any official thereof, or any official of any governmental unit thereof, premised solely upon the acceptance or use of benefits under this title.

**“SEC. 305. RESTRICTION ON USE OF FUNDS.**

“None of the funding provided under section 303 may be used—

“(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

“(2) for litigation purposes; and

“(3) to support multistate efforts or other coalition-building activities inconsistent with the purposes of this Act.

**“SEC. 306. INITIAL LAND CONVEYANCES.**

“(a) CONVEYANCE OF PUBLIC LANDS.—Within 120 days of the date of enactment of this Act, the Secretary of the Interior, or other agency with jurisdiction over the public lands described in subsection (b), shall convey the public lands described in subsection (b) to the appropriate county, unless the county notifies the Secretary of the Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye, County of Lincoln, or the City of Caliente under this subsection that are subject to a Federal grazing permit or a similar federally granted privilege shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the privilege would be able to legally terminate such privilege under the statutes and regulations existing at the date of enactment of this Act, unless the Federal agency, county or city, and the affected holder of the privilege negotiate an agreement that allows for an earlier conveyance.

“(b) SPECIAL CONVEYANCES.—Subject to valid existing rights and notwithstanding any other law, the Secretary of the Interior or the head of the other appropriate agency shall convey:

“(1) To the County of Nye, Nevada, the following public lands depicted on the maps dated October 11, 1995, and on file with the Secretary:

Map 1: Proposed Pahrump Industrial Park Site

Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site

Map 3: Pahrump Landfill Sites

Map 4: Amargosa Valley Regional Landfill Site

Map 5: Amargosa Valley Municipal Landfill Site

Map 6: Beatty Landfill/Transfer station Site

Map 7: Round Mountain Landfill Site

Map 8: Tonopah Landfill Site

Map 9: Gabbs Landfill Site.

“(2) To the County of Lincoln, Nevada, the following public lands depicted on the maps dated October 11, 1995, and on file with the Secretary:

Map 2: Lincoln County, Parcel M, Industrial Park Site, Jointly with the City of Caliente

Map 3: Lincoln County, Parcels F and G, Mixed Use, Industrial Sites

Map 4: Lincoln County, Parcels H and I, Mixed Use and Airport Expansion Sites

Map 5: Lincoln County, Parcels J and K, Mixed Use, Airport and Landfill Expansion Sites

Map 6: Lincoln County, Parcels E and L, Mixed Use, Airport and Industrial Expansion Sites.

“(3) To the City of Caliente, Nevada, the following public lands depicted on the maps dated October 11, 1995, and on file with the Secretary:

Map 1: City of Caliente, Parcels A, B, C and D, Community Growth, Landfill Expansion and Community Recreation Sites

Map 2: City of Caliente, Parcel M, Industrial Park Site, jointly with Lincoln County.

“(c) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The activities of the Secretary and the head of any other Federal agency in connection with subsections (a) and (b) shall be considered preliminary decision making activities. No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

**“TITLE IV—FUNDING AND ORGANIZATION**

**“SEC. 401. PROGRAM FUNDING.**

“(a) CONTRACTS.—

“(1) AUTHORITY OF SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such spent fuel or waste upon the payment of fees in accordance with paragraphs (2) and (3). Fees assessed pursuant to this paragraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended.

“(2) ANNUAL FEES.—

“(A) ELECTRICITY.—Under a contract entered into under paragraph (1) there shall be a fee for electricity generated by civilian nuclear power reactors and sold on or after the date of enactment of this Act. The aggregate amount of such fees collected during each fiscal year shall be no greater than the annual level of appropriations for expenditures on the possession, transportation, interim storage, and disposal of such spent fuel or waste consistent with subsection (d) for that fiscal year, minus—

“(i) any unobligated balance of fees collected during the previous fiscal year;

“(ii) such appropriations required to be funded by the Federal Government pursuant to section 403; and

“(iii) the amount of one-time fees received pursuant to paragraph (3).

The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold, except that the annual fee shall not exceed 1.0 mill per kilowatt-hour generated and sold. Fees assessed pursuant to this subparagraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended.

“(B) EXPENDITURES IF SHORTFALL.—If, during any fiscal year, the aggregate amount of fees assessed pursuant to subparagraph (A) is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

“(i) any unobligated balance collected pursuant to this section during the previous fiscal year;

“(ii) such appropriations required to be funded by the Federal Government pursuant to section 403; and

“(iii) the amount of one-time fees received pursuant to paragraph (3).

the Secretary may make expenditures from the Nuclear Waste Fund up to the level of the fees assessed.

“(C) BUDGET PRIORITIES IF SHORTFALL.—If, during any fiscal year, the provisions of subparagraph (B) come into effect—

“(i) the Secretary, for purposes of preparing annual requests for appropriations and

allocating appropriated funds among competing requirements under the Nuclear Waste Policy Act of 1997, shall accord—

“(I) the activities leading to an operating repository the highest priority; and

“(II) the activities leading to an operating interim storage facility under section 204 the next highest priority; and

“(ii) the Commission, for purposes of preparing annual requests for appropriations and allocating appropriated funds among competing requirements under the Nuclear Waste Policy Act of 1997, shall accord—

“(I) the activities leading to an operating repository the highest priority; and

“(II) the activities leading to an operating interim storage facility under section 204 the next highest priority.

“(D) RULES.—The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

“(3) ONE-TIME FEE.—The one-time fee collected under contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 before the date of enactment of this Act on spent nuclear fuel, or high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor before April 7, 1983, shall be paid to the Treasury. The Secretary shall collect all such fees before the expiration of fiscal year 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fee referred to in this paragraph and the license shall remain suspended until the full amount of the fee referred to in this paragraph is paid. In paying such a fee, the person delivering such spent nuclear fuel or high-level radioactive wastes, to the Secretary shall have no further financial obligation under this paragraph to the Federal Government for the long-term storage and permanent disposal of such spent nuclear fuel or high-level radioactive waste.

“(b) ADVANCE CONTRACTING REQUIREMENT.—

“(1) IN GENERAL.—

“(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

“(i) such person has entered into a contract under subsection (a) with the Secretary; or

“(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under subsection (a).

“(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

“(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

“(3) ASSIGNMENT.—The rights and duties of a party to a contract entered into under this section may be assignable with transfer of

title to the spent nuclear fuel or high-level radioactive waste involved.

"(4) DISPOSAL CONDITION.—No spent nuclear fuel or high-level radioactive waste generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be stored or disposed of by the Secretary at the interim storage facility or repository in the integrated management system developed under this Act unless, in each fiscal year, such department funds its appropriate portion of the costs of such storage and disposal as specified in section 403.

"(C) NUCLEAR WASTE FUND.—

"(1) IN GENERAL.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

"(A) all receipts, proceeds, and recoveries realized by the Secretary before the date of enactment of this Act;

"(B) any appropriations made by the Congress before the date of enactment of the Nuclear Waste Policy Act of 1997 to the Nuclear Waste Fund; and

"(C) all interest paid on amounts invested by the Secretary of the Treasury under paragraph (3)(B).

"(2) USE.—The Nuclear Waste Fund shall be used only for purposes of the integrated management system.

"(3) ADMINISTRATION OF NUCLEAR WASTE FUND.—

"(A) IN GENERAL.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

"(B) AMOUNTS IN EXCESS OF CURRENT NEEDS.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

"(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund; and

"(ii) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

"(C) EXEMPTION.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

"(d) USE OF APPROPRIATED FUNDS.—During each fiscal year, the Secretary may make expenditures of funds collected after the date of enactment of this Act under this section and section 403, up to the level of appropriations for that fiscal year pursuant to subsection (f) only for purposes of the integrated management system.

"(e) PROHIBITION ON USE OF APPROPRIATIONS AND NUCLEAR WASTE FUND.—The Secretary shall not make expenditures of funds collected pursuant to this section or section 403 to design or construct systems and components for the transportation, storage, or disposal of spent nuclear fuel from civilian nuclear power reactors.

"(f) APPROPRIATIONS.—

"(1) BUDGET.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

"(2) APPROPRIATIONS.—Appropriations shall be subject to triennial authorization. During each fiscal year, the Secretary may make expenditures, up to the level of appropriations, out of the funds collected pursuant to this section and section 403, if the Secretary transmits the amounts appropriated for implementation of this Act to the Commission and the Nuclear Waste Technical Review Board in appropriate proportion to the collection of such funds.

"(g) EFFECTIVE DATE.—This section shall take effect October 1, 1998.

#### "SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

"(a) CONTINUATION OF OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.—The Office of Civilian Radioactive Waste Management established under section 304(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of this Act, shall continue in effect subsequent to the date of enactment of this Act.

"(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

"(c) AUDITS.—

"(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

"(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the date of enactment of this Act.

"(3) COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

"(4) TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

"(5) PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

#### "SEC. 403. DEFENSE CONTRIBUTION.

"(a) ALLOCATION.—No later than one year from the date of enactment of this Act, acting pursuant to section 553 of title 5, United

States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel, high-level radioactive waste from atomic energy defense activities, and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel, high-level radioactive waste from atomic energy defense activities, and spent nuclear fuel from foreign research reactors shall include—

"(1) an appropriate portion of the costs associated with research and development activities with respect to development of the interim storage facility and repository; and

"(2) interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

"(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities as established under subsection (a).

"(c) REPORT.—In conjunction with the annual report submitted to Congress under section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities requiring management in the integrated management system.

"(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities as established under subsection (a).

#### "TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

##### "SEC. 501. COMPLIANCE WITH OTHER LAWS.

"If the requirements of any law (other than the Federal Lands Policy Management Act of 1976, the Endangered Species Act of 1973, the Migratory Bird Treaty Act of 1918, and the Federal Water Pollution Control Act as such Acts pertain to fish and wildlife and wetlands) are inconsistent with or duplicative of the requirements of the Atomic Energy Act and this Act of 1954 (42 U.S.C. 2011 et seq.), the Secretary shall comply only with the requirements of the Atomic Energy Act of 1954 and this Act in implementing the integrated management system. Any requirement of a State or political subdivision of a State is preempted if—

"(1) complying with such requirement and a requirement of this Act is impossible; or

"(2) such requirement, as applied or enforced, is an obstacle to accomplishing or carrying out this Act or a regulation under this Act.

##### "SEC. 502. WATER RIGHTS.

"(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

"(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements



of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands.

“(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

**“SEC. 503. JUDICIAL REVIEW OF AGENCY ACTIONS.**

“(a) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—

“(1) ORIGINAL AND EXCLUSIVE JURISDICTION.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

“(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

“(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

“(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

“(D) for review of any environmental impact statement prepared or environmental assessment made pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

“(2) VENUE.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia.

“(b) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that the party did not know of the decision or action complained of or of the failure to act, and that a reasonable person acting under the circumstances would not have known of such decision, action, or failure to act, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge of such decision, action, or failure to act.

“(c) APPLICATION OF OTHER LAW.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

**“SEC. 504. LICENSING OF FACILITY EXPANSIONS AND TRANSHIPMENTS.**

“(a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff,

to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

“(b) ADJUDICATORY HEARING.—

“(1) DESIGNATION.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

“(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

“(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

“(2) DETERMINATION.—In making a determination under this subsection, the Commission—

“(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

“(B) shall not consider—

“(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

“(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless—

“(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

“(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

“(3) APPLICATION.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

“(4) CONSTRUCTION.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

“(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

“(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary cir-

cumstances that excuse the failure to present a timely objection; and

“(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

**“SEC. 505. SITING A SECOND REPOSITORY.**

“(a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

“(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

**“SEC. 506. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.**

“(a) FINANCIAL ARRANGEMENTS.—

“(1) STANDARDS AND INSTRUCTIONS.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

“(2) BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

“(b) TITLE AND CUSTODY.—

“(1) AUTHORITY OF SECRETARY.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

“(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

“(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

“(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

“(2) PROTECTION.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

“(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

**“SEC. 507. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.**

“The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear powerplant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear powerplant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear powerplant simulators, and instructional requirements for civilian nuclear powerplant licensee personnel training programs.

**“SEC. 508. ACCEPTANCE SCHEDULE.**

“The acceptance schedule shall be implemented in accordance with the following:

“(1) Acceptance priority ranking shall be determined by the Department’s annual ‘Acceptance Priority Ranking’ report.

“(2) The Secretary’s spent fuel acceptance rate shall be no less than the following: 1,200 MTU in 2000 and 1,200 MTU in 2001, 2,000 MTU in 2002 and 2,000 MTU in 2003, 2,700 MTU in 2004, and 3,000 MTU thereafter.

“(3) If the Secretary is unable to begin acceptance by January 31, 2000 at the rates specified in paragraph (2), or if the cumulative amount accepted in any year thereafter is less than that which would have been accepted under the acceptance rate specified in paragraph (2), the acceptance schedule shall be adjusted upward such that within 5 years of the start of acceptance by the Secretary—

“(A) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had began acceptance in 1998, and

“(B) thereafter the acceptance rate is equivalent to the rate that would be in place pursuant to paragraph (2) above if the Secretary had commenced acceptance in 1998.

“(4) The acceptance schedule shall not be affected or modified in any way as a result of the Secretary’s acceptance of any material other than contract holders’ spent nuclear fuel and high-level radioactive waste.

**“SEC. 509. SUBSEAED OR OCEAN WATER DISPOSAL.**

“Notwithstanding any other provision of law—

“(1) the subseabed or ocean water disposal of spent nuclear fuel or high-level radioactive waste is prohibited; and

“(2) no funds shall be obligated for any activity relating to the subseabed or ocean water disposal of spent nuclear fuel or high-level radioactive waste.

**“SEC. 510. COMPENSATION.**

“The Secretary shall compensate the owners of any land the value of which is diminished by actions taken under this Act as follows:

“(1) If the value of the land, as set by a professional appraiser, is diminished by at least 20 percent, the Secretary shall provide

compensation to the owner of the land so that when the compensation is added to the value of the land the value of the land will not be considered as diminished; and

“(2) If the value of the land is diminished by at least 50 percent, the Secretary shall offer to purchase the land at its value before action was taken under this Act.

**“TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD**

**“SEC. 601. DEFINITIONS.**

“For purposes of this title—

“(1) CHAIRMAN.—The term ‘Chairman’ means the Chairman of the Nuclear Waste Technical Review Board.

“(2) BOARD.—The term ‘Board’ means the Nuclear Waste Technical Review Board continued under section 602.

**“SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.**

“(a) CONTINUATION OF NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of this Act, shall continue in effect subsequent to the date of enactment of this Act.

“(b) MEMBERS.—

“(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

“(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

“(3) NATIONAL ACADEMY OF SCIENCES.—

“(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

“(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

“(C) NOMINEES.—

(i) Each person nominated for appointment to the Board shall be—

“(I) eminent in a field of science or engineering, including environmental sciences; and

“(II) selected solely on the basis of established records of distinguished service.

“(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

“(iii) No person shall be nominated for appointment to the Board who is an employee of—

“(I) the Department of Energy;

“(II) a national laboratory under contract with the Department of Energy; or

“(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

“(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

“(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment.

**“SEC. 603. FUNCTIONS.**

“The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after December 22, 1987, including—

“(1) site characterization activities; and

“(2) activities relating to the packaging or transportation of spent nuclear fuel or high-level radioactive waste.

**“SEC. 604. INVESTIGATORY POWERS.**

“(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

“(b) PRODUCTION OF DOCUMENTS.—

“(1) RESPONSE TO INQUIRIES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information as may be necessary to respond to any inquiry of the Board under this title.

“(2) EXTENT.—Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

**“SEC. 605. COMPENSATION OF MEMBERS.**

“(a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

“(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsistence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

**“SEC. 606. STAFF.**

“(a) CLERICAL STAFF.—

“(1) AUTHORITY OF CHAIRMAN.—Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

“(2) PROVISIONS OF TITLE 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

“(b) PROFESSIONAL STAFF.—

“(1) AUTHORITY OF CHAIRMAN.—Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

“(2) NUMBER.—Not more than 10 professional staff members may be appointed under this subsection.

“(3) TITLE 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

**“SEC. 607. SUPPORT SERVICES.**

“(a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

“(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General, the Librarian of Congress, and the Director of the Office of Technology

Assessment shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

“(c) **ADDITIONAL SUPPORT.**—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

“(d) **MAILS.**—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

“(e) **EXPERTS AND CONSULTANTS.**—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

#### **“SEC. 608. REPORT.**

“The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations.

#### **“SEC. 609. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated for expenditures such sums as may be necessary to carry out the provisions of this title.

#### **“SEC. 610. TERMINATION OF THE BOARD.**

“The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

### **“TITLE VII—MANAGEMENT REFORM**

#### **“SEC. 701. MANAGEMENT REFORM INITIATIVES.**

“(a) **IN GENERAL.**—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, to the maximum extent practicable, in like manner as a private business.

“(b) **SITE CHARACTERIZATION.**—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining site characterization effort and to eliminate studies of parameters that are shown not to affect long-term repository performance.

#### **“SEC. 702. REPORTING.**

“(a) **INITIAL REPORT.**—Within 180 days of the date of enactment of this Act, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Waste Management System. Such report shall include—

“(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste beginning no later than January 31, 2000, and in accordance with the acceptance schedule;

“(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;

“(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to meet the planned schedule and timeline; and

“(4) an analysis by the Secretary of its funding needs for fiscal years 1996 through 2001.

“(b) **ANNUAL REPORTS.**—On each anniversary of the submittal of the report required by subsection (a), the Secretary shall make annual reports to the Congress for the pur-

pose of updating the information contained in such report. The annual reports shall be brief and shall notify the Congress of—

“(1) any modifications to the Secretary's schedule and timeline for meeting its obligations under this Act;

“(2) the reasons for such modifications, and the status of the implementation of any of the Secretary's contingency plans; and

“(3) the Secretary's analysis of its funding needs for the ensuing 5 fiscal years.”.

#### **SEC. 2. CONTINUATION OF CONTRACTS.**

Subsequent to the date of enactment of this Act, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act in accordance with their terms except to the extent that the contracts have been modified by the parties to the contract.

The CHAIRMAN. No amendment shall be in order except those printed in House Report 105-354. Each amendment may be offered only in the order specified, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment, and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

After a motion that the Committee rise has been rejected on a day, the Chairman may entertain another such motion on that day only if offered by the majority leader or his designee.

After a motion to strike out the enacting clause of the bill has been rejected, the Chairman may not entertain another such motion during further consideration of the bill.

It is now in order to consider amendment No. 1, printed in House Report 105-354, as modified.

AMENDMENT NO. 1, AS MODIFIED, OFFERED BY  
MR. DAN SCHAEFER OF COLORADO

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I offer amendment No. 1, as modified.

The CHAIRMAN. The Clerk will designate the amendment, as modified.

The text of the amendment, as modified, is as follows:

Amendment No. 1, as modified, offered by Mr. DAN SCHAEFER of Colorado:

Page 19, line 2, insert before the period the following:

, using routes that minimize, to the maximum practicable extent and consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas

Page 19, beginning in line 3, strike “In conjunction with” and insert the following:

“(1) **IN GENERAL.**—In conjunction with”

and add after line 16 on page 19 the following:

“(2) **RAIL ROUTES.**—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall establish procedures for the selection of preferred

rail routes for the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage site and the repository site. Such procedures shall be established in consultation with the designated emergency services planning management official for any State or Indian tribe affected by the rail routes selected.

Page 20, line 20, insert after “organizations” the following: “, voluntary emergency response organizations.”.

Page 24, line 16, strike “regulations promulgated by the Commission” and insert “existing Federal regulations”.

Page 25, beginning on line 1, strike “The” and all that follows through “paragraph (1)” on line 3 and insert “If training standards are required to be promulgated under paragraph (1), such standards”.

Page 25, line 5, strike “include the following provisions—” and insert “provide for—”.

Page 25, after line 19, insert the following: “The Secretary of Transportation may specify an appropriate combination of knowledge, skills, and prior training to fulfill the minimum number of hours requirements of subparagraphs (A) and (B).”.

Page 43, strike lines 17 and all that follows through line 13 on page 44, and insert the following:

#### **“SEC. 207. APPLICABILITY.**

“Nothing in this Act shall affect the application of chapter 51 of title 49, United States Code; part A of subtitle V of title 49, United States Code; part B of subtitle VI of title 49, United States Code; and title 23, United States Code.”.

Page 81, after line 13, insert the following:

#### **“SEC. 510. SEPARABILITY.**

“If any provision of this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.”.

In the table of contents—

(1) in the item relating to section 207 amend the heading to read as follows: “Applicability”; and

(2) add at the end of title V the following: “Sec. 510. Separability.”.

Page 21, line 6, redesignate subparagraph (B) as subparagraph (C) and insert after line 5 the following:

“(B) **EMERGENCY RESPONDER TRAINING STANDARDS.**—The training standards for persons responsible for responding to emergency situations occurring during the removal and transportation of spent nuclear and high level radioactive waste shall, in accordance with existing regulations, ensure their ability to protect nearby persons, property, or the environment from the effects of accidents involving spent nuclear fuel and high-level radioactive waste.

The CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Colorado [Mr. DAN SCHAEFER] and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from Colorado [Mr. DAN SCHAEFER].

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to clarify that this pending amendment is an amendment made in order earlier by a unanimous consent request. The manager's amendment makes a number of non-controversial changes to H.R. 1270, and reflects the views of the Committee on Commerce, the Committee on Resources, and the Committee on Transportation and Infrastructure.

□ 1830

Mr. Chairman, I yield 1 minute to the gentlewoman from Missouri [Ms. MCCARTHY].

(Ms. MCCARTHY of Missouri asked and was given permission to revise and extend her remarks.)

Ms. MCCARTHY of Missouri. Mr. Chairman, I thank the esteemed gentleman from Texas [Mr. HALL], ranking member, as well as the gentleman from Colorado [Mr. DAN SCHAEFER], and the gentleman from Michigan [Mr. UPTON], the sponsor of H.R. 1270. They have all been helpful and supportive in working with me to help clarify an issue related to rail transportation that is incorporated in the bill before us.

Mr. Chairman, it is an issue which is critical to the constituents in my district and the citizens of Missouri. While no specific routes for rail shipments have been determined, approximately 1,400 rail shipments of waste projected over the next 30 years, possibly a third of these wastes would be transported through Missouri.

There currently are no Federal regulations related to determining preferred rail routes for transportation of this material. My language in this manager's amendment establishes this process to safeguard rail transportation and ensure that the appropriate State and tribal authorities are involved in the decision-making process.

Mr. Chairman, this type of consultative relationship and route planning is essential to ensuring the highest levels of safety to our communities. There are other important clarifications in the manager's amendment that further advance safety and transportation portions of this bill. I thank the managers and urge support of this amendment.

Mr. Chairman, I would like to thank my esteemed ranking member, Mr. HALL, as well as the gentleman from Colorado, Chairman SCHAEFER, and the gentleman from Michigan [Mr. UPTON], sponsor of H.R. 1270, who have all been very helpful and supportive in working with me on clarifying an important issue related to rail transportation that is incorporated in the manager's amendment before us. This is an issue that is critically important to the constituents in my district of Greater Kansas City, the second largest rail hub in the nation, and the citizens of Missouri, which contains the 3rd largest rail hub in St. Louis.

While no specific routes for rail shipments have been determined, approximately 1,400 rail shipments of waste are projected over thirty years. Existing rail line options are limited for east-west transit and lead us to the realization that a significant percentage of shipments, possibly a third if distributed across all options, would be transported through Missouri.

Current Hazardous Materials [HazMat] law established a process, which this legislation builds upon, for highway routing decisions related to transportation of spent nuclear fuel. There currently are no federal regulations related to determining preferred rail routes for the transportation of this material. My language in the Manager's amendment establishes this process to safeguard rail transportation and ensure that the appropriate state and tribal authorities are involved in the decisionmaking process.

This type of consultative relationship and route planning is essential to ensuring the highest level of safety for our communities. There are other important clarifications in the manager's amendment that further advance the safety and transportation portions of the bill. I thank the managers for their inclusion of this language in the amendment and urge my colleagues to support the adoption of the amendment.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I would say that the gentlewoman from Missouri [Ms. MCCARTHY] has been very gracious in her input.

Mr. HALL of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to congratulate and give accolades to the gentlewoman from Missouri [Ms. MCCARTHY], who has established a system of selecting preferred rail routes, and currently there is no system for that. I thank her and I thank the gentleman from Ohio [Mr. SAWYER], and I thank those of the Nation's firefighters who have helped work this out.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Colorado [Mr. DAN SCHAEFER].

The amendment, as modified, was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 105-354.

AMENDMENT NO. 2 OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. KILDEE:

Page 4, strike line 11 and all that follows through page 5 line 11, and insert the following:

"(3) AFFECTED INDIAN TRIBE.—The term affected Indian tribe' means an Indian tribe whose reservation is surrounded by or borders on an affected unit of local government, or whose federally-defined possessory or usage rights to other lands outside of the border of the Indian tribe's reservation arising out of Congressionally-ratified treaties may be affected by the locating of an interim storage facility or repository, if the Secretary finds, upon petition of the appropriate government officials of the Indian tribe, that such affects are both substantial and adverse to the Indian tribe.

The CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Michigan [Mr. KILDEE] and a Member in opposition each will control 5 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

(Mr. KILDEE asked and was given permission to revise and extend his remarks.)

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Colorado.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, we have looked over this amendment. We have no opposition to it and we will accept it.

Mr. KILDEE. Mr. Chairman, with that then I will enter my remarks into the RECORD.

Mr. Chairman, the amendment I am offering today will make sure that Indian tribes are not inadvertently left out of the consultation or assistance process. My amendment simply incorporates the Senate definition of "Affected Indian tribe". This amendment is supported by the Nevada tribes as well as the National Congress of American Indians.

Under the current House definition of "affected Indian tribe", no Indian tribes in Nevada, including the shoshone and Paiute tribes who have lived on this land for more than 10,000 years, will qualify for treatment as an "affected Indian tribe". This strikes me and many others as patently unfair.

These tribes are governments and ought to be treated on the same footing as other local governments. That is to say, they ought to be given the same opportunity and the same level of financial and technical assistance as we are giving other Nevada communities to enable them to carefully review program activities and evaluate the impacts of nuclear storage on their lands.

The Senate definition of an "affected Indian tribe" includes tribes whose reservation boundaries are contiguous with other affected units of local government. This simply means that Indian tribes who are close to the storage site will have an opportunity to receive aid and assistance to the same extent that any other local government has.

I believe that this is a reasonable proposal and, given the fact that the tribes in Nevada have lived on this particular land for thousands of years, only fair.

I urge my Committee colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. KILDEE].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. HASTERT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the House Resolution 283, further proceedings on the amendment offered by the gentleman from Michigan [Mr. KILDEE] will be postponed.

It is now in order to consider amendment No. 3 printed in House Report 105-354.

AMENDMENT NO. 3 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment, and I ask unanimous consent that that amendment be modified by the modification that has been placed at desk.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. TRAFICANT:

Page 7, line 14, strike "reprocessing" and insert "reprocessing in the United States", beginning in line 20 strike "activities" and insert "activities in the United States", and in line 21, strike "material" and insert "material in the United States".

Page 11, line 14, strike "reactor" and insert "reactor in the United States".

MODIFICATION TO AMENDMENT NO. 3 OFFERED BY MR. TRAFICANT

The CHAIRMAN. The Clerk will report the modification to the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The Clerk read as follows:

Amendment No. 3 printed in House Report 105-354, as modified by Mr. TRAFICANT:

Page 6, insert after line 7 the following: "(II) Nuclear nonproliferation."

Page 7, line 14, strike "reprocessing" and insert "reprocessing in the United States".

Page 11, line 13 insert after "fuel" the following: ", other than foreign spent nuclear fuel as defined in section 131f(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2160(f)(4))."

The CHAIRMAN. Is there objection to the modification to the amendment offered by the gentleman from Ohio [Mr. TRAFICANT]?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Ohio [Mr. TRAFICANT] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, the amendment is very simple. It says that we will not become the dumping ground for any foreign waste unless it was covered by an international agreement or military procurement understandings.

Mr. Chairman, I yield to the gentleman from Colorado [Mr. DAN SCHAEFER], chairman of the committee.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, the Traficant amendment certainly prohibits the disposal of spent nuclear fuel from other plants in foreign countries, and I think the gentleman is right on. We worked out, I think, all the problems on this and we appreciate the fact that we have found a resolution to this. We have no problems on this side, and we will accept the amendment.

Mr. TRAFICANT. Mr. Chairman, I appreciate the gentleman's concerns and advice, and I yield to the gentleman from Texas [Mr. HALL], the ranking member.

Mr. HALL of Texas. Mr. Chairman, we certainly appreciate the modification and think it is a good amendment.

Mr. TRAFICANT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. UPTON. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 283, further proceedings on the amendment, as modified, offered by the gentleman from Ohio [Mr. TRAFICANT] will be postponed.

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 283, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 2 offered by the gentleman from Michigan [Mr. KILDEE]; the amendment No. 3, as modified, offered by the gentleman from Ohio [Mr. TRAFICANT].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. KILDEE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan [Mr. KILDEE], on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 408, noes 10, not voting 14, as follows:

[Roll No. 543]

AYES—408

Abercrombie  
Ackerman  
Aderholt  
Allen  
Andrews  
Archer  
Armey  
Bachus  
Baesler  
Baker  
Baldacci  
Ballenger  
Barcia  
Barrett (NE)  
Barrett (WI)  
Bartlett  
Bass  
Bateman  
Becerra  
Bentsen  
Bereuter  
Berry  
Bilbray  
Bilirakis  
Bishop  
Blagojevich  
Bliley  
Blumenauer  
Blunt  
Boehlert  
Boehner  
Bonilla  
Bonior  
Bono  
Borski  
Boswell  
Boucher  
Boyd  
Brady  
Brown (CA)  
Brown (FL)  
Brown (OH)  
Bryant  
Bunning  
Burr  
Burton  
Buyer  
Callahan  
Calvert  
Camp  
Campbell  
Canady  
Cannon  
Cardin  
Carson

Castle  
Chabot  
Chambliss  
Chenoweth  
Christensen  
Clay  
Clayton  
Clement  
Clyburn  
Coburn  
Collins  
Combest  
Condit  
Conyers  
Cook  
Cooksey  
Costello  
Cox  
Coyne  
Cramer  
Crane  
Crapo  
Cummings  
Cunningham  
Danner  
Davis (FL)  
Davis (IL)  
Davis (VA)  
Deal  
DeFazio  
DeGette  
Delahunt  
DeLauro  
DeLay  
Dellums  
Deutsch  
Diaz-Balart  
Dickey  
Dicks  
Dixon  
Doggett  
Dooley  
Doolittle  
Doyle  
Dreier  
Duncan  
Dunn  
Edwards  
Ehlers  
Ehrlich  
Emerson  
Engel  
English  
Ensign  
Eshoo

Etheridge  
Evans  
Everett  
Farr  
Fattah  
Fawell  
Fazio  
Filmer  
Flake  
Foglietta  
Foley  
Forbes  
Ford  
Fowler  
Fox  
Frank (MA)  
Franks (NJ)  
Frelinghuysen  
Frost  
Furse  
Gallegly  
Ganske  
Gekas  
Gejdenson  
Gephardt  
Gibbons  
Gilchrest  
Gillmor  
Gilman  
Goode  
Goodlatte  
Goodling  
Gordon  
Goss  
Graham  
Granger  
Green  
Greenwood  
Gutierrez  
Gutknecht  
Hall (OH)  
Hall (TX)  
Hamilton  
Hansen  
Harman  
Hastings (FL)  
Hastings (WA)  
Hayworth  
Hefner  
Herger  
Hill  
Hilleary  
Hilliard  
Hinchey  
Hinojosa

Hobson  
Hoekstra  
Holden  
Hooley  
Horn  
Houghton  
Hoyer  
Hulshof  
Hunter  
Hutchinson  
Hyde  
Inglis  
Istook  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jefferson  
Jenkins  
John  
Johnson (CT)  
Johnson (WI)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Kanjorski  
Kaptur  
Kasich  
Kennedy (MA)  
Kennedy (RI)  
Kennelly  
Kildee  
Kilpatrick  
Kim  
Kind (WI)  
King (NY)  
Kingston  
Klecza  
Klink  
Klug  
Knollenberg  
Kolbe  
Kucinich  
LaFalce  
LaHood  
Lampson  
Lantos  
Largent  
Latham  
LaTourette  
Lazio  
Leach  
Levin  
Lewis (GA)  
Lewis (KY)  
Linder  
Lipinski  
Livingston  
LoBiondo  
Lofgren  
Lowey  
Lucas  
Luther  
Maloney (CT)  
Maloney (NY)  
Manton  
Manzullo  
Markey  
Martinez  
Mascara  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McCollum  
McCrery  
McDade  
McDermott  
McGovern  
McHale  
McHugh  
McInnis  
McIntyre  
McKeon

Barr  
Barton  
Coble  
Ewing

Berman  
Cubin  
Dingell  
Gonzalez  
Kelly

McKinney  
McNulty  
Meehan  
Meek  
Menendez  
Metcalfe  
Mica  
Millender-McDonald  
Miller (CA)  
Miller (FL)  
Minge  
Mink  
Moakley  
Mollohan  
Moran (KS)  
Murtha  
Myrick  
Nadler  
Neal  
Nethercutt  
Neumann  
Ney  
Northrup  
Norwood  
Nussle  
Oberstar  
Obey  
Olver  
Ortiz  
Owens  
Oxley  
Packard  
Pallone  
Pappas  
Parker  
Pascrell  
Pastor  
Paul  
Paxon  
Payne  
Pease  
Pelosi  
Peterson (MN)  
Peterson (PA)  
Petri  
Pickering  
Pickett  
Pitts  
Pombo  
Pomeroy  
Porter  
Portman  
Poshard  
Price (NC)  
Pryce (OH)  
Quinn  
Radanovich  
Rahall  
Ramstad  
Rangel  
Redmond  
Regula  
Reyes  
Riggs  
Riley  
Rivers  
Rodriguez  
Roemer  
Rogan  
Rogers  
Rohrabacher  
Ros-Lehtinen  
Rothman  
Roukema  
Roybal-Allard  
Royce  
Rush  
Ryun  
Sabo  
Salmon  
Sanchez

NOES—10

Hastert  
Hefley  
Hostettler  
Sanford

NOT VOTING—14

Lewis (CA)  
McIntosh  
Moran (VA)  
Morella  
Schiff

Sanders  
Sandlin  
Sawyer  
Saxton  
Scarborough  
Schaefer, Dan  
Schaffer, Bob  
Schumer  
Scott  
Sensenbrenner  
Serrano  
Sessions  
Shadegg  
Shaw  
Shays  
Sherman  
Shimkus  
Shuster  
Siskiy  
Skaggs  
Skeen  
Skeltton  
Slaughter  
Smith (MI)  
Smith (NJ)  
Smith (OR)  
Smith (TX)  
Smith, Adam  
Smith, Linda  
Snowbarger  
Snyder  
Souder  
Spence  
Spratt  
Stabenow  
Stark  
Stearns  
Stenholm  
Strickland  
Stupak  
Sununu  
Talent  
Tanner  
Tauscher  
Taylor (MS)  
Taylor (NC)  
Thomas  
Thompson  
Thornberry  
Thune  
Thurman  
Tiahrt  
Tierney  
Torres  
Towns  
Traficant  
Turner  
Upton  
Velazquez  
Vento  
Visclosky  
Walsh  
Wamp  
Waters  
Watkins  
Watt (NC)  
Watts (OK)  
Waxman  
Weldon (PA)  
Weller  
Wexler  
Weygand  
White  
Whitfield  
Wicker  
Wise  
Wolf  
Woolsey  
Wynn  
Young (AK)  
Young (FL)

Solomon  
Stump

Stokes  
Tauzin  
Weldon (FL)  
Yates

□ 1855

Messrs. COBLE, EWING, and HEFLEY changed their vote from "aye" to "no."

Mr. SHADEGG changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

## ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 283, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the second amendment on which the Chair has postponed further proceedings.

## AMENDMENT NO. 3, AS MODIFIED, OFFERED BY MR. TRAFICANT

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment, as modified, offered by the gentleman from Ohio [Mr. TRAFICANT] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment, as modified.

The Clerk designated the amendment, as modified.

## RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 407, noes 11, not voting 14, as follows:

[Roll No. 544]

AYES—407

Abercrombie	Brown (OH)	Delahunt
Ackerman	Bryant	DeLauro
Aderholt	Bunning	DeLay
Allen	Burr	Dellums
Andrews	Burton	Deutsch
Archer	Buyer	Diaz-Balart
Armey	Callahan	Dickey
Bachus	Calvert	Dicks
Baesler	Camp	Dingell
Baker	Canady	Dixon
Baldacci	Cardin	Doggett
Ballenger	Carson	Dooley
Barcia	Castle	Doolittle
Barr	Chabot	Doyle
Barrett (NE)	Chambliss	Dreier
Barrett (WI)	Chenoweth	Duncan
Bartlett	Christensen	Dunn
Barton	Clay	Edwards
Bass	Clayton	Ehlers
Bateman	Clement	Ehrlich
Becerra	Coble	Emerson
Bentsen	Coburn	Engel
Bereuter	Collins	English
Berry	Combest	Ensign
Bilbray	Condit	Eshoo
Billirakis	Conyers	Etheridge
Bishop	Cook	Evans
Blagojevich	Cooksey	Everett
Bliley	Costello	Ewing
Blumenauer	Cox	Farr
Blunt	Coyne	Fattah
Boehlert	Cramer	Fawell
Boehner	Crane	Fazio
Bonilla	Crapo	Filner
Bonior	Cummings	Flake
Bono	Cunningham	Foglietta
Borski	Danner	Foley
Boswell	Davis (FL)	Forbes
Boucher	Davis (IL)	Ford
Boyd	Davis (VA)	Fowler
Brady	Deal	Fox
Brown (CA)	DeFazio	Franks (NJ)
Brown (FL)	DeGette	Frelinghuysen

Frost	Lowey	Ros-Lehtinen
Galleghy	Lucas	Rothman
Ganske	Luther	Roukema
Gejdenson	Maloney (CT)	Roybal-Allard
Gekas	Maloney (NY)	Royce
Gephardt	Manton	Rush
Gibbons	Markey	Ryun
Gilchrest	Mascara	Sabo
Gillmor	Matsui	Salmon
Goode	McCarthy (MO)	Sanchez
Goodlatte	McCarthy (NY)	Sanders
Goodling	McCollum	Sandlin
Gordon	McCrery	Sanford
Goss	McDade	Sawyer
Graham	McDermott	Saxton
Granger	McGovern	Scarborough
Green	McHale	Schaefer, Dan
Greenwood	McHugh	Schaffer, Bob
Gutierrez	McInnis	Schumer
Gutknecht	McIntyre	Scott
Hall (OH)	McKeon	Sensenbrenner
Hall (TX)	McKinney	Serrano
Hamilton	McNulty	Sessions
Hansen	Meehan	Shadeegg
Harman	Meek	Shaw
Hastert	Menendez	Shays
Hastings (FL)	Metcalfe	Sherman
Hastings (WA)	Mica	Shimkus
Hayworth	Millender	Shuster
Hefley	McDonald	Sisisky
Hefner	Miller (CA)	Skaggs
Herger	Miller (FL)	Skeen
Hill	Minge	Skelton
Hilleary	Mink	Slaughter
Hilliard	Moakley	Smith (MI)
Hinchee	Mollohan	Smith (NJ)
Hinojosa	Moran (KS)	Smith (OR)
Hobson	Moran (VA)	Smith, Adam
Hoekstra	Murtha	Smith, Linda
Holden	Myrick	Snowbarger
Hooley	Nadler	Snyder
Horn	Neal	Solomon
Hostettler	Nethercutt	Souder
Houghton	Neumann	Spence
Hoyer	Ney	Spratt
Hulshof	Northup	Stabenow
Hunter	Norwood	Stark
Hutchinson	Nussle	Stearns
Hyde	Oberstar	Stenholm
Inglis	Obey	Strickland
Istook	Oliver	Stump
Jackson (IL)	Ortiz	Stupak
Jackson-Lee	Owens	Sununu
(TX)	Oxley	Talent
Jefferson	Packard	Tanner
Jenkins	Pallone	Tauscher
John	Pappas	Tauzin
Johnson (CT)	Parker	Taylor (MS)
Johnson (WI)	Pascrell	Taylor (NC)
Johnson, Sam	Pastor	Thomas
Jones	Paul	Thompson
Kaptur	Paxon	Thornberry
Kasich	Payne	Thune
Kennedy (MA)	Pease	Thurman
Kennedy (RI)	Pelosi	Tiahrt
Kennelly	Peterson (MN)	Tierney
Kildee	Peterson (PA)	Torres
Kilpatrick	Petri	Towns
Kim	Pickering	Traficant
Kind (WI)	Pickett	Turner
King (NY)	Pitts	Upton
Kingston	Pombo	Velazquez
Klecza	Pomeroy	Vento
Klug	Porter	Visclosky
Knollenberg	Portman	Walsh
Kolbe	Poshard	Wamp
Kucinich	Price (NC)	Waters
LaFalce	Pryce (OH)	Watkins
LaHood	Quinn	Watt (NC)
Lampson	Radanovich	Watts (OK)
Lantos	Rahall	Weldon (PA)
Largent	Ramstad	Weller
Latham	Rangel	Wexler
LaTourette	Redmond	Weygand
Lazio	Regula	White
Leach	Reyes	Whitfield
Levin	Riggs	Wicker
Lewis (CA)	Riley	Wise
Lewis (GA)	Rivers	Wolf
Lewis (KY)	Rodriguez	Wynn
Linder	Roemer	Young (AK)
Lipinski	Rogan	Young (FL)
Livingston	Rogers	
LoBiondo	Rohrabacher	

NOES—11

Cannon	Johnson, E. B.	Martinez
Clyburn	Kanjorski	Waxman
Frank (MA)	Klink	Woolsey
Furse	Lofgren	

NOT VOTING—14

Berman	Kelly	Smith (TX)
Campbell	Manzullo	Stokes
Cubin	McIntosh	Weldon (FL)
Gilman	Morella	Yates
Gonzalez	Schiff	

□ 1906

Mr. BERRY and Mr. MILLER of California changed their vote from "no" to "aye."

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. LAHOOD). It is now in order to consider amendment No. 4 printed in House Report 105-354.

## AMENDMENT NO. 4 OFFERED BY MR. ENSIGN

Mr. ENSIGN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. ENSIGN:

Page 15, insert after line 8 the following:

"(e) RISK ASSESSMENT AND COST BENEFIT.—The Secretary shall not take any action under this Act unless the Secretary has with respect to such action conducted a risk assessment which is scientifically objective, unbiased, and inclusive of all relevant data and relies, to the extent available and practicable, on scientific findings and which is grounded in cost-benefit principles.

The CHAIRMAN pro tempore. Pursuant to House Resolution 283, the gentleman from Nevada [Mr. ENSIGN] and a Member opposed each will control 10 minutes.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Colorado [Mr. DAN SCHAEFER] will control the 10 minutes in opposition.

The Chair recognizes the gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the amendment that I have offered today is consistent with the language in the Contract With America that Republicans brought to this floor a little over 2 years ago. It is based on a concept that before the Government does something, we should do studies that say what are the risks, what are the costs versus the benefits? Very simple.

What this, H.R. 1270, does is, H.R. 1270 presumes that this Congress knows everything that there is to know about nuclear waste. It presumes that this Congress has all the experts that it needs right here, that all of the studies have already been done.

And the nuclear energy industry actually says that all of the studies say that the Yucca Mountain is suitable and all these things, when even the Government's own scientists have said

the Yucca Mountain has not been deemed suitable or acceptable. That is why the President has threatened to veto this bill. What we are saying with this amendment is simply that the Secretary of Energy shall conduct these studies prior to moving the bill forward.

The GAO has estimated the Yucca Mountain project to cost nearly \$33 billion. Before dumping endless amounts of taxpayer dollars into the project, let us take a step back and make sure that this is the best use of the American people's money. If this project is as good as my colleagues say, obvious cost-benefit analysis will show that it is.

Mr. Chairman, we are asking that the Republicans especially who support this bill, that they be consistent in their arguments. They have argued in the past for cost benefit analysis. And why is that? They have argued in the past because it is a good thing to do. Before the Government goes and does something, we should prove that there are benefits. What are the risks? What are the benefits?

Let us just stick to the principle in the Contract With America that we all came and we all signed in 1994 on the steps of the Capitol.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. ENSIGN. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding.

You know, this is one item in the Contract With America that passed the House of Representatives overwhelmingly. Almost everyone agreed that there should be some risk assessment when the Federal Government is getting into these major Federal projects. We were guaranteed that there would not be any danger, because there was not going to be any delay, because that was not the objective, and now we get the perfect example of where it should apply. I urge adoption of the amendment.

Mr. ENSIGN. Mr. Chairman, I reserve the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. UPTON], the author of the bill.

Mr. UPTON. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. MARKEY] for a simple, quick answer. How did the gentleman vote on that provision of the Contract With America? I was looking for a "yes" or "no," not a card game.

Mr. MARKEY. Mr. Chairman, if the gentleman will yield, even a blind squirrel finds an acorn once in a while. I now realize the correctness of the provision.

Mr. UPTON. Mr. Chairman, reclaiming my time, this Ensign amendment would require that the Department of Energy undertake a risk assessment

before it takes any action under the act. The amendment would stop the nuclear waste program in its tracks and would prevent the Department of Energy from taking any action for years. It would guarantee that all nuclear waste in this country stays right where it is, spread out all over the country, rather than going to one safe site.

I would say, too, that the risk assessments required by the Ensign amendment are in addition to the requirements that the Department of Energy prepare EIS, environmental impact statements, before major actions.

□ 1915

Under this amendment the DOE would have to perform a risk assessment and prepare an environmental impact statement. There is no need for the risk assessment required by this amendment. The Department of Energy nuclear waste program is probably the most closely scrutinized Federal program created. There is layer after layer of oversight. The State of Nevada oversees the program, as does the Nuclear Waste Technical Review Board and the Nuclear Regulatory Commission. All of this oversight is funded by consumers, and this would be viewed as a killer amendment. I would urge my colleagues to vote "no."

Mr. ENSIGN. Mr. Chairman, I yield myself 30 seconds to say that, first of all, new science is being discovered all the time in Nevada. Plutonium just recently was discovered by the National Academy of Sciences to have migrated almost one mile. The significance of that discovery is that they did not expect that. Because all of the proponents of the bill have been saying, first of all, Yucca Mountain is safe, there is no water to worry about, do not worry about the groundwater table or any of that. But science is constantly finding new things. That is why we need this cost-benefit and risk analysis.

Mr. Chairman, I yield 2 minutes to the gentleman from Nevada [Mr. GIBBONS], who sits on the Committee on Resources, who rejected this bill, by the way.

Mr. GIBBONS. Mr. Chairman, I thank the gentleman for yielding me this time.

First, I find it odd that people would object to a cost-benefit analysis. It is a tool that is commonly used in private businesses throughout America. It is widely accepted in academia as a tool by which we make sound judgment for sound policy about what we are doing in this Nation.

If Members want to talk about risk, let us look at the environmental hazards that are posed by transportation of nuclear waste around America. Let us look at the idea that this bill tells us that we can ignore all those environmental laws that we have talked about earlier. Let us look at the fact that we have got a train wreck right here. This is a risk, Mr. Chairman. This

is a risk for America. We need to look at these risks, and we need to analyze what is going to be the benefit or what is going to be the cost.

Once again, take a look at where all of these risks are going to take place. That is 43 States in this country. Forty-three States ought to have an opportunity to evaluate the risks of this bill and to analyze the costs that are going to be involved to these States with the transportation of this material through those States, through those communities, next to those schools with kids playing out there if an accident occurs.

This is a critically important amendment for this bill. It is an amendment which is going to allow States or require the Secretary of Energy to perform those analyses, to evaluate those risks, and to take appropriate actions with that information.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, I of course believe that tools are good if they are used properly and if they are not used for obstruction, and that is really what this amendment is. This amendment would just simply prohibit the Secretary from taking any action. I think it creates an absolute obligation for the Secretary to conduct the proposed analysis subject to anything that comes under H.R. 1270, any type action. It makes no allowance for the Secretary to conduct a risk assessment during other steps of the process.

This proposal lacks even an adequate definition of risk assessment. It provides no direction as to the consequences of the assessment. We say that the EIS already requires this and it is going to be done, it will be done, it is directed that it be done.

It throws up a number of procedural hurdles that really renders impossible the storage as this act calls for. It is a little like back in the 1960's, the States of New Mexico and Arizona when they were mining copper, when the enviros, well meaning though they were, set up a rule of law that you had to replace the terrain as it was in its natural state. Of course, no court upheld that, but it gave rise to an injunction that put off and put off and put off and prevented and that caused escalation of the price.

This is a bad amendment. It is just meant to cripple. I urge that Members vote it down.

Mr. ENSIGN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, every major environmental group in this country opposes H.R. 1270: The Sierra Club, the National Resource Defense Council, Friends of the Earth, U.S. PIRG, Public Citizen, Citizen Alert, League of Conservation Voters, Greenpeace, Nuclear Information and Resources Service, Military Production Network.

By the way, those are the people that live around these facilities that we are talking about that have the nuclear



waste, and those people are standing up and saying that it is our moral responsibility to come up with solutions, and the solution is not an interim storage facility out in Nevada. The reason, and one of the reasons that these environmental groups oppose this bill is because we have not determined what the risks are. We have not determined what the costs are going to be. As the GAO does new studies and finds out that, first of all, Yucca Mountain is much more expensive than anybody ever thought before, and it seems like every year they come out with new studies that say Yucca Mountain is much more expensive, the same thing with interim storage. If you actually do the cost-benefit analysis and risk assessment, when you start taking into account, there was a case in New Mexico where radioactive waste was transported by a person's property, that person was awarded by the court and upheld by the State Supreme Court of New Mexico that that was considered a takings and that person had to be compensated for the loss because of the perceived loss of valuation of that person's land.

As we are transporting nuclear waste, the most deadly substance known to mankind, across 43 States, across all kinds of people's property, let us say that you have a very nice, beautiful piece of property that is a resort. Now you have got nuclear waste being transported by it. It could very well be argued, especially viewing what happened in Germany where they had 30,000 police officers being required to transport nuclear waste, just 6 casks, by the way, of nuclear waste, just 6,300 miles to the north, 173 people were injured.

People are trying to say that private property is not going to be devalued by nuclear waste being transported by it? And especially this bill says that you have to give local notice. We know that as you give local notice, that people are going to come out in this country and protest the shipment of this waste. Land is going to be devalued. So we do not even know how much this is actually going to cost because of that.

By the way, the taxpayer ends up holding the bill on this. It is under our Constitution, if the Federal Government based on the Fifth Amendment does devalue somebody's land, it is going to be the taxpayer that ends up holding the bill on this.

Mr. Chairman, I reserve the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Chairman, I appreciate the opportunity to speak in opposition to the amendment. A lot has been said about this being an amendment to add risk assessment into the legislation, but properly understood, it really should be called the additional regulatory bureaucracy and delay amendment. It is very clear from the debate we have had here already that

the action required by this amendment would be to force the Department of Energy to undertake a risk assessment before it takes any action under this act. And since the amendment does not define which DOE actions require a risk assessment, each action would probably end up requiring such a risk assessment.

We have heard discussion about whether there is unreasonable risk involved in this entire process. I think that the proponents of the amendment and the opponents of the bill would have Members believe that we are simply transporting nuclear fuel around the country without any evaluation of risk standards or that we are evaluating the sites without consideration of environmental harm or risk or other considerations. The fact of the matter is just the opposite.

As I said in my earlier debate, the regulatory regime for radioactive material transport has been very heavily evaluated. It focuses on risk extremely aggressively and has an absolutely perfect safety record. I went through that information previously but over the last 30 years, we have had 2500 shipments of spent nuclear fuel in the United States; since 1957, 667 shipments of Navy fuel, over a million miles of travel, and in the last 22 years the Department of Energy under these programs has transported nuclear weapons and special nuclear materials nearly 100 million miles. All of this has occurred without a radioactive release. Those who would have Members believe that risk is not carefully evaluated, monitored and regulated in our current nuclear regime in the United States are misstating the reality. The fact is that we will have adequate protections both environmentally and in terms of the risk, and there is no reason why we should not proceed with the legislation that is now before us to solve this critical issue to this country.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, the issue here is what is expedient, how do we get the job done, and how do we make sure it is done safely? Before we ever start to cross the threshold on this whole issue, there has to be an environmental impact study. That is in place. It is being done. What this amendment asks us to do is to every time that there is any action at all dealing with this, there has to be an impact study done, that there has to be a financial research study done.

If we want to give \$2500 to the Mayville, Ohio fire department to beef up their education, there has to be a financial impact study done. If we want to help railroad employees do safety inspections and we decide to do that, that is an action. And so whenever one of these actions happens, you stop the whole process until the financial impact statement has been done, which might be a whole period of time, and you take instead of the whole gestalt,

the whole issue, you divide it into millions of little pieces and you stop that action every time you turn around.

I understand that the proponents of this amendment would like to slow the action down. They would like to stop this from happening. They would like us to stop solving the problem of safe storage for nuclear waste in this country. But this amendment that brings this thing down to a death of a thousand cuts just will not work.

We need to pass this legislation, we need to do it safely, we need to do the environmental impact statements, we need to do the overall financial statements, but we cannot stop the process a million and 10 times that this amendment asks for. We need to reject this amendment and move forward.

The CHAIRMAN pro tempore [Mr. LAHOOD]. The Chair would advise that the gentleman from Colorado [Mr. DAN SCHAEFER] has 2 minutes remaining and the gentleman from Nevada [Mr. ENSIGN] has 1½ minutes remaining.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, may I inquire, who has the right to close on this amendment?

The CHAIRMAN pro tempore. The gentleman from Colorado has the right to close.

Mr. ENSIGN. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Chairman, I support the amendment to have a cost-benefit analysis. We are embarking on one of the most dramatic changes in nuclear policy that has ever been conducted in the history of the world. There are going to be 15,000 shipments by rail and highway of radioactive waste through 43 States and the District of Columbia. Hundreds of cities are involved across America's heartland. If nuclear waste is privatized as some are proposing, far more of the waste traffic would go by truck. It is estimated there would be 79,300 truck shipments, 12,600 rail shipments. We ought to evaluate this, we ought to look at the cost-benefit as it affects every community in this country.

Mr. ENSIGN. Mr. Chairman, I yield myself such time as I may consume. The government's own scientists at the Nuclear Waste Technical Review Board said that there is no hurry, that we do not need to do this now. There is time to do a cost-benefit analysis.

□ 1930

We are not running out of space, there is plenty of space. All you have to do is build cement pads at the nuclear facilities with dry cast storage. The NRC has said that is good for 100 years.

It has been mentioned we have not had an accident yet. Mr. Chairman, I am from Las Vegas. We go on odds in Las Vegas. With 100 miles or whatever they said that have been traveled so far with no accidents, the odds are, one is coming. All you have to do is see how many train wrecks we have had in the last several years. Imagine what one of

those train wrecks would do if the people that have done some of the early studies were wrong on these canisters.

We are not talking about a small risk here; we are talking about major environmental safety hazards. I think a reasonable cost-benefit risk assessment is very justified. I would urge a yes vote on this amendment.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield two minutes to the gentleman from Michigan [Mr. UPTON], the author of the bill.

Mr. UPTON. Mr. Chairman, I just want to remind my colleagues what this bill does is it gets it out of these temporary storage places that are along the Great Lakes and the Chesapeake Bay and rivers and streams and into one safe place. We have had a perfect record of transporting this stuff. It was not mined in the dunes of Lake Michigan. It had to get there somehow. It got there in a perfect way, without a single incident of exposure or release of radioactive material. We think that that can continue as we get it out of the dunes and off of the shores of these environmentally sensitive areas to one safe place.

I just want to close on this amendment and urge my colleagues to vote no. The result of this amendment is pointless delay. I want to give one example.

The amendment would require the Department of Energy to perform a risk assessment before it provided funds to emergency response teams for public safety training. It is redundant. We do not need a risk assessment for items like that, and this amendment, if it was adopted, would require that every action would require a risk assessment.

It is too much. We do not need it. The bill is designed to be safe in the transportation of this material. It will be so.

The CHAIRMAN pro tempore (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Nevada [Mr. ENSIGN].

The question was taken, and the Chairman pro tempore announced that the noes appeared to have it

RECORDED VOTE

Mr. ENSIGN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 283, further proceedings on the amendment offered by the gentleman from Nevada will be postponed.

It is now in order to consider an Amendment No. 5 printed in House Report 105-354.

AMENDMENT NO. 5 OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. GIBBONS: Page 19, insert after line 16 the following: "(e) EMERGENCY RESPONSE TEAM.—The Secretary may not plan for the transpor-

tation of spent nuclear fuel or high-level radioactive waste through any State unless the Governor of such State can certify that an adequate emergency response team exists in such State to appropriately manage any nuclear accident that may occur in such transportation.

The CHAIRMAN pro tempore. Pursuant to House Resolution 283, the gentleman from Nevada [Mr. GIBBONS] and a Member opposed will each control 10 minutes.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Colorado, Mr. DAN SCHAEFER will be recognized for 10 minutes in opposition to the amendment offered by the gentleman from Nevada, Mr. GIBBONS.

The Chair recognizes the gentleman from Nevada [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment simply states that the Governor of each State with nuclear waste routes shall certify that emergency response teams exist and can properly manage any nuclear accident before transportation plans can be implemented by the Secretary.

Governors of States faced with the mandate of accepting highly dangerous irradiated nuclear waste in their State should be given the legal authority to ensure that an emergency response team is adequately prepared to protect the health and safety of those citizens.

A Department of Energy report estimated that a radioactive accident could take up to 460 days and cost up to \$19.4 billion to clean up. No State can afford the economic consequences of a disaster of this magnitude. Realizing that, these costs cannot include the intangible loss of life that could also occur.

Without the passage of my amendment, Mr. Chairman, Governors' voices will be stifled in the oversight of transportation of nuclear waste.

Many people feel as I do, that this is an infringement on States' rights. Every State should have the legal authority to make sure their citizenry is safe, and it is the job of that Governor to ensure that all possible remedies are used to ensure that.

If a nuclear accident did occur, those first to respond to the disaster must be adequately trained. Local firefighters and police officers will be the first to respond to nuclear truck or train accidents.

The International Association of Fire Fighters stated in a letter that the International Association of Fire Fighters represents more than 225,000 emergency responders, who are the Nation's first line of defense during any hazardous material incident, including the transportation of highly radioactive material. Without adequate training, it is easy to see why they are opposing this bill.

It is the responsibility of the Governor of these States to uphold their

States' constitution and protect the health and safety of its citizenry. How can any Governor expect to protect their States, their constituents, as well as the firefighters and the policemen, without the legal authority granted under this amendment?

H.R. 1270, the Nuclear Waste Policy Act of 1997, would mandate that nuclear waste be shipped through 43 States, regardless if consent is granted by these States or not.

It is a simple issue of States' rights and public safety. If this body wishes to pass H.R. 1270, then I feel it is our obligation, an obligation that most of us, if not all on this side of the aisle, have stated for a long time, an obligation to return power to the States and allow them every opportunity to protect themselves from the deadly mandate under H.R. 1270 and this Congress.

Every State should be prepared to handle a nuclear accident before it happens, not after the deadly contents spill upon the ground. I would ask Members to trust their Governors, their State, and especially their constituency, to support State rights and support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON], the author of the bill.

Mr. UPTON. Mr. Chairman, I would note that this Gibbons amendment would bar the Department of Energy from planning for the transportation of spent nuclear fuel or high level radioactive waste through any State unless the Governor of the State certified that an adequate emergency response team existed in the State.

This, in a sense, would give every Governor a veto over nuclear waste transportation through their State. All that the Governor would have to do is to refuse to certify that their State has adequate emergency response teams, and that is it. That is it. A killer amendment.

The temptation would be irresistible to perhaps the Governor of Nevada, because no matter how adequately trained their emergency response team might be, the Governor would just say, no.

I would ask my colleagues to vote no on this amendment. I would note that in the deliberations in the markup before our full committee, the gentleman from Missouri, KAREN MCCARTHY, a respected Member, wanted to offer an amendment. We worked with her, it was included, in fact, in the manager's amendment, and it directed that the Secretary of Transportation would, in fact, establish procedures for the selection of preferred railroad routes for transportation of nuclear waste to an interim storage facility and repository, and DOT would be directed to consult with State emergency response officials in the development of these preferred routes.

That means that there is local input. The Governors and the States are

going to be involved. Thanks to the input of the gentlewoman from Missouri [Ms. MCCARTHY], that amendment has been adopted as part of this bill, and, therefore, there is no need for the Gibbons amendment.

Mr. GIBBONS. Mr. Chairman, I yield myself 30 seconds to respond to this.

Mr. Chairman, first of all, let me State we are not just simply picking this stuff up and placing it down here without any transportation occurring throughout the course of 43 different States. It is not irresponsible for Governors to want to work and present and protect the safety of their citizens. I think it is irresponsible of a Governor who does not do that.

Mr. Chairman, I yield 2 minutes to the gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, this is clearly about States' rights and the tenth amendment. This is not a national security issue, as some people have said it was. We have had nuclear waste at these facilities for decades. If it was a national security issue now, it would certainly have been a national security issue then, and it will be in the future then, because we are not taking all the nuclear waste from these facilities.

It will continue to exist in the district of the gentleman from Michigan [Mr. UPTON], in the district of the gentleman from Illinois [Mr. HASTERT], and on and on. Nuclear waste will still be in their districts. They will not have as much of it, but they will have it.

What the amendment of the gentleman from Nevada [Mr. GIBBONS] does is says that the Governor, who is the closest representative to a State and is aware of what is happening in their State and knows best, would say that these emergency response teams have to exist and be properly trained before nuclear waste can come through their State.

What representative here in Congress would not want their Governor to have to say, yes, the emergency response teams are in place? Now you can bring the waste through our State. But until that Governor says that these emergency response teams are in place and are trained properly, no nuclear waste can come through my State if I was a Governor. I would certainly want that right if I was a Governor, and I know virtually every Governor across this country would want that right as well.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, this amendment would prevent the Secretary from taking any, any, significant action to prepare for the transportation of this nuclear fuel through the State, if the Governor, any Governor of the State, refused to certify that "an adequate emergency response team exists."

In the first place, the amendment is not necessary for safe transportation, because the Hazardous Materials Transportation Act, as the gentleman from Ohio pointed out, and the Nuclear Regulatory Commission regulations, apply to all shipments of spent fuel and high level radioactive waste. That, and the consulting provisions of H.R. 1270, provide the Governor of each State with an opportunity to designate.

A Governor can designate the alternate transportation routes, but they do not give the Governor the authority to prohibit the interstate transportation of materials through a State as this amendment would do. This amendment would kill that.

Now, in reality, the amendment would bring the entire nuclear program to a halt by giving any Governor the right to veto transportation through their State. I think their Governor, I think it is Governor Miller, has indicated he would do almost anything to prevent this from happening. I do not blame him. I would take the same position he has taken. But this gives him the same position as any Governor. He is a Governor, and any Governor can do it. This gives them a veto.

First, I would point out that nuclear energy has been around a long, long time. The first plant came on in Shippingport, Pennsylvania, back in 1961. From that day to this date shipping is obvious. You have to ship it. It has to go somewhere. It has to be transported.

Then if that happens, we have to look and see what the safety record has been to date. During the last 30 years, commercial nuclear energy has built an impeccable safety record of more than 2,900 shipments of used fuel across the U.S. highways and railroads, and in that time, no injuries, no fatalities, no environmental damage has occurred, because of the radioactivity of the cargo. In fact, there has been no release of radioactivity during these shipments; 2,900 shipments, shipments of commercial used nuclear fuel and research reactor fuel, have traveled more than 1.6 million miles across the country's highways and rail lines since 1964, according to the data from the NRC, the State of Nevada, and from the industry.

This is not needed, and I certainly urge that it be defeated.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to my colleague and friend, the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Chairman, I rise in support of the Gibbons amendment. The commerce clause of the Constitution of the United States is not a vehicle to endanger the rights of States, but to facilitate the rights of the Union respecting the States.

There is no respect for the States when we decide to ship millions of tons of nuclear waste through 43 States without giving the States a strong voice in the process.

The Governors are ultimately responsible for the safety of populations with-

in the State. Just today the Subcommittee on Government Operations urged that the protection of gulf war veterans, the responsibility for that protection, be taken away from two major Federal departments because those departments were lax in protecting the gulf war veterans who experienced the gulf war syndrome.

□ 1945

States ought to take pause when the safety and protection of their population rests solely on one Federal department which must be responsive first to the nuclear industries, and then perhaps to the civilian population.

Mr. Chairman, I urge a vote for the Gibbons amendment.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, one of the things that when we look at amendments we have to say, what is the reason this amendment exists? Why do people want to put it in?

It is very simple. If one wanted to stop nuclear waste and high-level military waste from moving across this country, as it has for scores of millions of miles, for decades across this country, safely, then one would say we would give the ability for an individual in a State, in this case the Governor, just to veto this and say "You cannot move this through my State anymore."

Especially if one wanted to stop nuclear waste from going to a permanent repository or a temporary repository, one would give the Governor the ability, the Governor of that State or of other States, to say, "I am going to veto this," regardless of the Secretary of the Department of Transportation, the plans they have for safe transportation, and the Department of Energy, despite the plans they have for safe storage of high-level nuclear waste, regardless of what those plans are.

But one of the things that I think the author of this amendment forgot to look at is the constitutionality. One of the things that we have guaranteed in the Constitution of the United States is the ability for interstate trade, and the movement and transportation of trade across the borders of States not to be inhibited by any one State or any one person in a State.

This amendment, to my view, is clearly unconstitutional. What it really does is give the veto power to States and individuals in States to stop interstate commerce, something that is guaranteed in the Constitution.

But beyond that, it also is a way just to stop the process, not to stop the process just for the storage of nuclear waste that this bill tries to move us to, a safe storage of nuclear waste, but of all the movement of military waste, of domestic waste that we have in this country today.

That means we cannot move it anywhere, we cannot move it off the ships, we cannot move it off of any repositories we have, we cannot move it to safer places. So the only alternative left is to have this nuclear waste stack up in the open, out in the elements, near some of our most important natural resources, the Great Lakes, for instance, in Michigan and other places, and to be exposed to the elements. That is not the best and highest purpose that we have to move forward on to store high-level nuclear waste. It was never the intent.

We have to remember that the Federal Government had made a contract with the American people in 1982 that they would take this nuclear waste and store it in a safe way, and when we say store it, we also have to assume it is transportation in a safe manner. We need to move forward and reject this amendment.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I am a very strong believer in Thomas Jefferson's belief in States' rights, the rights of States to assert their legitimate authority over that which takes place in their domain.

I hate it when I see Members of Congress out trampling on an individual State's ability to act, on a Governor's right to protect a State's own citizens, especially when we are told that we do not even have to make the truck drivers liable because it is so safe. They cannot even have an accident if they tried. It is in containers that cannot break, so we are told. Well, as a result, we are going to suspend the Governor's right to be able to ask a few questions, but it is over a subject that they are telling us is absolutely harmless.

Again, I think if Thomas Jefferson were here, he would be very suspicious of a central government telling the State to trust us, we are sending through cannisters of highly dangerous materials, but they do not have to worry because the central government has taken care of them. That is where I think Alexander Hamilton was always questioned by Thomas Jefferson. I hate to see it when Members are out usurping the legitimate right of Governors on this kind of a matter.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the Members for allowing me to present my argument on this matter.

Mr. Chairman, I notice my colleague, the gentleman from Illinois, talks about the Commerce Clause. The Commerce Clause regulates commerce among the several States, but it is the 10th Amendment which reserves those powers not expressly delegated to the Federal Government to the States themselves and to the people.

It is the health and safety of the people of those States through which this

transport of hazardous nuclear waste material is going to take place. Those Governors have the right, notwithstanding any other arguments that I have heard here before, to regulate and ask that the safety of their constituents be protected.

Let me also say something my mother said to me, that "If you fail to prepare, you are preparing to fail." Governors across this Nation should prepare their response teams for the inevitable accident of nuclear waste.

Mr. Chairman, I ask that my colleagues support this, support this in the name of safety, support this in the name of States' rights.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this can turn into a political issue very, very rapidly when a Governor of a particular State has to make the decision on whether or not they are going to allow the transport of this across State lines.

I guess the one concern that I have on this is that every one of these Governors politically are going to say, hey, no way, and we will end up leaving the waste in the 35 States or 38 States that it is in today. So I would just say I oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nevada [Mr. GIBBONS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GIBBONS. Mr. Chairman, on that I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 283, further proceedings on the amendment offered by the gentleman from Nevada [Mr. GIBBONS] will be postponed.

It is now in order to consider amendment No. 6 printed in the House report 105-354.

AMENDMENT NO. 6 OFFERED BY MR. ENSIGN

Mr. ENSIGN. Mr. Chairman, I offer amendment No. 6.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. ENSIGN:  
Page 19, insert after line 16 the following:  
"(c) EMERGENCY RESPONSE.—The Secretary may not plan for the transportation of spent nuclear fuel or high-level radioactive waste in a fiscal year for which funds appropriated under section 203(c) are insufficient (as determined by the Federal Emergency Management Agency) to ensure adequate and trained emergency response teams along all the transportation routes to be used in such fiscal year.

The CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Nevada [Mr. ENSIGN] and a Member opposed each will control 10 minutes.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I rise to claim opposition to the amendment.

The CHAIRMAN. The gentleman from Colorado, Mr. DAN SCHAEFER, will control 10 minutes in opposition to the amendment offered by the gentleman from Nevada [Mr. ENSIGN].

The Chair recognizes the gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, before I go on to talk about this amendment, which deals with safety, I want to talk about the comment that the subcommittee chairman made on the last amendment when he said that, well, of course, if the Governors had their choice, every one of them would oppose nuclear waste being transported across their State and they would stop it. He said every Governor. He may want to retract that statement, but he said every Governor. Does it not make sense that we would oppose a bill if every Governor in every State does not want nuclear waste being transported across their State?

Mr. Chairman, I have an amendment, and this amendment would simply require certification by FEMA, and by the way, this is an independent agency, that adequate appropriations, in other words, monies be appropriated to exist for the emergency response teams that are going to be necessary across those 43 States if an accident did occur.

Local fire and police departments will be the first ones on the scene of a nuclear waste accident, and it is vitally important that these forces are mobilized and trained in responding to possible radiation leaks. H.R. 1270 authorizes funding for these purposes, but makes that funding contingent upon actions of the Committee on Appropriations.

This year, for an example, the energy and water appropriations bill provided \$2.6 billion less than the administration's request for programs that are ongoing. The money simply is not there. But we need to ensure that if that money is not provided, that we do not undertake activities when we have not adequately prepared to deal with the consequences of those activities.

Mr. Chairman, I think it is absolutely outrageous that we would not simply make sure that the money is there, that adequate money is there; not to be appropriated, but actually there, mandated that we spend to make sure that the transport of the deadliest substance known to mankind, if an accident occurs, that those response teams have the adequate funding that they can prepare to meet the type of accident that could ensue.

Mr. Chairman, I reserve the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Chairman, this amendment bars the Department of Energy from planning for nuclear waste transportation in any fiscal year in which funds are deemed to be insufficient by the Federal Emergency Management Agency to ensure adequate and trained emergency response teams along all the transportation routes to be used in each such fiscal year.

On its face this sounds like a good idea, but when we look at it, it is another amendment designed to prevent transportation of nuclear waste. It is going to create a circumstance in which, instead of addressing this issue once and for all, we create now yet again another regulatory mechanism, where every year we have to fight in this Congress over whether we are going to have in place the necessary structure to move ahead with transporting the spent nuclear fuel of this country to permanent storage.

This amendment would prevent the Department of Energy from beginning to accept nuclear waste in the year 2002. Last year a Federal court said that the United States has a legal obligation to begin acceptance of nuclear waste in the year 1998. H.R. 1270 provides for that acceptance at least by the year 2002.

This amendment would delay the beginning of that acceptance for years. In addition, once FEMA was able to make determinations as required by this amendment, opponents of the nuclear waste program would seek annually to cut funding for emergency response training or to otherwise argue that the funding simply was not sufficient, and if that was not enough, they would try to work through regulatory routes to get FEMA to simply say they were not ready.

If their efforts were successful, nuclear transportation would be blocked for another entire year, year after year, as the process of debate moved forward. This amendment is designed to create yet one more venue where we debate endlessly the question of how will we deal with spent nuclear fuel in this country. It is not designed to improve training of emergency response teams or promote that safe transportation; it is designed to keep nuclear waste where it now is, spread out across the country in scores of sites in 35 or more States.

We have, as we have discussed repeatedly tonight, a safe transportation system. If we need more safety, we can appropriate the necessary dollars to do so. I do not believe there would be much objection to appropriating for strengthened and increased training in FEMA. But we do not need to fall for the trick of tying that FEMA funding to the ability of the Department of Energy to transport the spent nuclear fuel in this country as is necessary for the security and safety of our Nation.

□ 2000

Mr. ENSIGN. Mr. Chairman, I think it is important to point out that we are more concerned about people's lives, where they are more concerned about the process that goes on here in the Congress.

Mr. Chairman, I yield 2 minutes to the gentleman from Nevada [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, it seems that we have been called a lot of things this evening, especially obstruc-

tionists. Well, I think those people who are opposing these amendments are the obstructionists.

What we are talking about here is response team funding, paying money out to save people's lives, human lives. The health of humanity, the environment is at risk here. The safety of the citizens is a responsibility of the Governors in these 43 States through which this material is going to be transported. They need the resources to make sure that we are doing this safely in the event of that actuality of an accident that is bound to happen.

By the way, let me also take a little time here to talk a little bit about "Indiana Michigan Power versus DOE." I want to dispel these myths about the law as it now stands. It does not require the Federal Government to take into possession this nuclear material. It says that in the event of an unavoidable delay, in the event of an unavoidable delay, the parties are to readjust schedules as appropriate to accommodate the delay. It does not mandate that the Federal Government take possession of this in 1998. It does nothing that all of this hyperbole that we hear from the opponents of this amendment say. This case literally does not require the Federal Government to take possession of that.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, inasmuch as the gentleman from Nevada [Mr. ENSIGN] took some of his time to answer the gentleman from Colorado [Mr. SCHAEFER], let me answer something the gentleman from Nevada said a little bit ago.

Mr. Chairman, I do not consider them obstructionists, and we are trying not to be. The gentleman mentioned that they play the odds in Las Vegas. I have been to Las Vegas. The last time I was out there I saw a dejected fellow sitting over there. He lost all of his money and he could not borrow any more money and he could not cash any checks, but the management was kind out there and they offered him some food. And he said, "No, I can't do that. My bus will be here in a few minutes." And they said, "Oh, you have to catch the bus?" And he said, "No, I'm going to get in front of it."

Mr. Chairman, that is what we would do if this amendment passed. Because whereas the other amendment said that any Governor could veto it, this sets out that a bureaucrat can veto it. They are going to let FERC veto it. That is of course outrageous.

H.R. 1270 provides already for technical assistance and funding to the States, to the effected units of local governments, Indian tribes and non-profit organizations for the training of local public safety officials.

The amendment would give the Director of FEMA complete discretion over whether this act is implemented. I just do not think we want to do that. It would be an illegal delegation of power.

It is not a good idea. We do not want to leave it up to the bureaucrats.

Mr. ENSIGN. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, if it is so very safe to ship these materials under the legal regime which has been established under this bill, then the sponsors should not have any problems with this amendment. All we really do here is say if FEMA determines that there is insufficient funds that have been appropriated for emergency response teams, then we have to basically deal with that issue.

But we have reached a point here now where we are saying we have got an unfunded mandate where we are not going to help out the State or the local municipality in dealing with this issue. We are telling the Governors they do not have any authority here to deal with it. And now we are turning to the FEMA and we are saying that this very safe material is stuff that we do not even want FEMA to have to certify that they have enough money to be able to handle it.

Mr. Chairman, I think that the proponents of this bill do protesteth too much about how safe it is while at the same time telling Governors, mayors, FEMA to butt out in terms of questioning, in fact, the real protections given to the public.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I would just remind my colleagues that this is a duplicative amendment. Under the existing law and this bill, H.R. 1270, DOE provides funding from the income under this program to provide emergency response training for State and local entities in the unlikely event of an accident with radioactive materials.

Under the funding, the DOE already provides assistance for training of State and local officials and tribal emergency rescue workers. The commercial nuclear safe record during 2,900 shipments speak to the effectiveness of the training.

I remind my colleagues that this radioactive material did not just show up at these 80 different facilities around the country. It had to get there. And some 1,300 tons of the radioactive rods were shipped without accident, without spillage, without a single release of nuclear material, all under the safe guidance of the Department of Energy.

Mr. Chairman, to change that record and give it to somebody else and let them start all over and do their regulations is just further delay. I would urge my colleagues: "If it ain't broke, don't fix it." The system works now under the guidance of the Department of Energy, and I have a feeling of confidence that it will continue without this amendment.

Mr. ENSIGN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Chairman, I urge a "yes" vote on the amendment. There

are a number of assumptions that are being made here in this debate. I recall the remarks of the gentleman from Texas [Mr. HALL] about betting in Las Vegas. We are betting that radioactive waste cannot spill. We are betting that trucks carrying the radioactive waste will not have accidents. We are betting that trains which carry the radioactive waste will not derail. We are betting that the casks which contain the radioactive waste transported will not break, will not come open or leak.

But that has a familiar ring. It sounds like the Titanic will not sink. The Hindenburg will not fall out of the sky. Or if my colleagues want a modern reference, that Three Mile Island will never have an accident.

Mr. Chairman, I would say, again referring to the remarks of the gentleman from Texas, that we might have better odds of getting out in front of that bus than we may have of there not being any accident.

So safety is an issue. Let us keep focused on this safety issue which is implicit in this amendment. The bill would send an estimated 100,000 shipments of high-level radioactive waste through 43 States, passing 50 million people in their communities. At the very least, we need to ensure there are safeguards in place and that means money to train emergency response teams along the transportation routes. And if there is not enough money, appropriate it to ensure that adequate response teams are in place along the waste transportation route.

Mr. Chairman, the Department of Energy ought not be prohibited from planning for the transportation of this radioactive waste.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I remember when I was a kid the old western movies were out there. My mother never told me much about nuclear waste, but we used to watch the western movies. And if they had to stop the train that had the stuff in it from getting to the good guys, first of all they sent the Indians after it. We have to confer with the Indians. We passed that amendment tonight. Then they switched it off on the spur so it cannot go down the track. Well, we can do that. But really the question is here how many bureaucracies do we have to have to stop nuclear waste from getting to a place of safe storage?

Well, Mr. Chairman, we have the Department of Defense, first of all, that has some of this nuclear waste. They are involved in this thing. We have DOE, Department of Energy, who prescribes the safe way to transport this, to bundle it, to package it, to store it. And then we also have the Department of Transportation.

Now, I understand that the sponsors of this amendment certainly would like to stop nuclear waste from going to a safe destination where we can have a final resting place for this stuff that

is stored in scores of States and scores of places, in people's backyards, backyards in our communities next to natural resources. We need to find a safe place to do it.

But if they are going to stop that from happening, what they really do here is say, well, let us let FEMA do this now. Mr. Chairman, FEMA has never had any experience in nuclear waste. They are not an agency that deals with transportation of nuclear waste, but we are going to say that FEMA now has the ability to do this and has to put together rules and has to put together a whole process and, by the way, that is going to be a couple of years so we cannot even begin to plan to move nuclear waste in this country until we have another bureaucracy involved.

Mr. Chairman, we might as well bring in the Indians and try to switch this thing off onto the dead track. We need to defeat this amendment and move on.

Mr. ENSIGN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, what we are talking about here is really just a safety issue, just to make sure that there is a comfort level for the people in America.

The authors of the bill have even said this is unnecessary because this bill authorizes the monies for these emergency response teams. All we are saying is, and I have only been here almost 3 years, and even in that very short period of time I have seen bills that are authorized for certain amount of money. Does the Highway Trust Fund sound familiar to anybody? Authorized for a certain amount of money and then that money not being spent. The trust fund that we are talking about here, does that sound familiar to my colleagues?

Well, what we are saying is that we want to make sure that the money is not just authorized; that the money actually gets to those emergency response teams so that if there is an accident, that the people are adequately trained and can handle this.

We have been lucky in this country. We have not had the kind of nuclear disaster from an accident that all of us would never want to happen. But if it does happen, would any of us want to face the parents of a child that was killed in one of these accidents? Was exposed to some kind of radiation that ended up at that point leading to cancer or to certain death?

Well, Mr. Chairman, I think that the very least we can do for those people is to make sure that if an accident does occur, that the people in the surrounding areas have the comfort level that their emergency response teams are in place and have been well-trained because the monies from this Congress, and this Congress is the one who is doing all of this. It is not the States out there. This Congress is the one transporting this waste, authorizing the transport of this waste.

So this Congress should take the responsibility to make sure that the

money is appropriated, the money is adequately appropriated, not just authorized but adequately appropriated, that these emergency response teams would be in place. To do anything less would be a dereliction of our moral duty to our constituents all across these United States.

Mr. Chairman, I yield back the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I have no more speakers, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nevada [Mr. ENSIGN].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ENSIGN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 283, further proceedings on the amendment offered by the gentleman from Nevada [Mr. ENSIGN] will be postponed.

It is now in order to consider amendment No. 7 printed in House Report 105-354.

AMENDMENT NO. 7 OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. MARKEY:

Page 36, strike line 18 and all that follows through line 9 on page 39.

The CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from Colorado [Mr. DAN SCHAEFER] will each control 10 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

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Mr. MARKEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is one thing when they tell us, as proponents of this legislation, that we really do not have to be concerned about it traveling down the highway and we really do not have to give any authority to local mayors or Governors, even the FEMA, to be able to properly protect public safety. But it is another thing, Mr. Chairman, when the Congress determines that a human being can be exposed to 100 millirems of radiation at this site with no health consequences for the individual.

In other countries in the world, they have much different standards than are built into this bill. In Canada, it is one millirem a year. In Finland and Switzerland, it is 10 millirems a year. In France, it is 25 millirems a year. But here the Congress is going to decide that pregnant women, children can be exposed to 100 millirems a year, even though we know that at that level, one in 286 people exposed to that level of

radiation will, in fact, contract fatal cancer.

Now, I can understand how we can pretend that the canisters cannot break. I can understand how we can pretend that the driver will never get drunk. But we cannot pretend that science does not exist. We cannot pretend that the National Academy of Sciences does not exist. And we cannot pretend to be experts. A congressional expert is an oxymoron. We are only experts compared to each other. We are not experts compared to real experts, radiation experts, medical people.

Where do we get off picking 100 millirems knowing that one in 286 people exposed will in fact contract fatal cancer? By the way, this 100 millirems is on top of all of the other radiation exposure that a human being is exposed to in the course of a year. It is absolutely unbelievable.

Now, the second part of my amendment deals with the absolutely, I think, preposterous leap that there can be no human intrusion at Yucca Mountain for 1,000 years. That is, by assuming that, we do not have to build in any extra environmental protections. Now, we have no idea if some nuclear Indiana Jones nine centuries from now might be wandering around some desolate location in Nevada not knowing what went on back in the Congress in 1997. And perhaps we have not left behind some nuclear Rosetta stone, because perhaps English is not being spoken in that part of the world at that time, and they come across this site.

Well, this bill assumes that Indiana Jones cannot break in, cannot wander in with their entire tribe and be exposed to this incredible blast of radiation that will hit them as soon as they crack through. All of it, of course, contributing to the ridiculous final picture of what is being sold out here on the floor, is just an attempt to run roughshod over EPA, over the Nuclear Regulatory Commission, over the FEMA, over Governors, over mayors, over selectmen, over individual Americans and over unsuspecting-centuries-from-now individuals that might run across this site.

I ask, Mr. Chairman, for this amendment to be adopted. My amendment restores the EPA as an agency which will have to establish the minimal radiation exposure for human beings at this site. My amendment pulls back the assumption that no human intrusion is possible and, as a result, says we have got to build in protections upon the assumption that it just might happen at some time.

We are burying this for 10,000 years, longer than all recorded history to this moment. And this Congress is sitting around in committees making decisions about how much protection we are going to be giving to people centuries from now. I do not think so. I do not think we have that kind of wisdom, congressional experts that we may be.

So I ask that the Markey amendment be adopted for the protection near term

of the women, the children, the men who are going to be exposed to the millirems in the construction of this site and working around this site, and I ask that it be adopted for future generations as they may be exposed unwittingly to this facility.

Mr. Chairman, I reserve the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 4 minutes to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Chairman, once again we are debating another amendment which clearly is going to stop the purpose of the bill from moving forward.

H.R. 1270 establishes a presumptive radiation protection standard of 100 millirems or 1/3 background levels. This standard was not chosen arbitrarily, as those who support the amendment seem to suggest. Instead it reflects the judgment of the International Council for Radiation Protection and is the standard that has been adopted by the NRC in its regulations for general public protection.

H.R. 1270 further allows NRC to amend the radiation standard if they deem it necessary for the protection of public health and safety. And it is the NRC, not the EPA, that is the agency with expertise on radiation. NRC has concluded that the standard in H.R. 1270, and I quote, will fully protect public health and safety and the environment. And H.R. 1270 requires the NRC to consult with the EPA.

But another point needs to be made. That is, this bill does not set a standard out of just the desire for Congress to move ahead on this. It sets it out of frustration with inaction by the EPA. In 1982, the EPA was directed to promulgate these standards. It failed to do so.

Fifteen years later it has not established such a standard. In 1992, the EPA was directed to establish standards for radiation releases and still after entering into a science study and getting the results of that study in 1995, it has not issued those standards.

Continued inaction by the EPA should not be allowed to block us from moving forward.

The gentleman from Massachusetts [Mr. MARKEY] often states that the radiation standard in H.R. 1270 will cause cancer deaths. The fact is, however, that two years ago the NRC told the gentleman from Massachusetts [Mr. MARKEY] that the radiation standard in H.R. 1270 would protect human health.

On July 13, 1995, the NRC wrote to him and told him that this radiation standard will likely cause zero cancer deaths. In the letter the NRC stated that there would only be cancer deaths if a population of 1,400 people lived on top of the repository for 70 years. And Yucca Mountain, as we know, has been withdrawn into this bill and is very sparsely populated.

The fact is that the average American is exposed to 300 millirems of natural radiation per year. This standard

is safe. The agencies involved have declared it to be safe. And if it needs to be adjusted, it can be adjusted.

What about the issue of human intrusion? The gentleman from Massachusetts [Mr. MARKEY] made a good point. He speculated, I think with a little smile on his face, about what extreme circumstances we could hypothesize that could happen in the future. I guess we could hypothesize that the entire earth population would be obliterated by some tragedy, that we would lose all ability to communicate or understand what had happened, and that someone would then go to Yucca Mountain and drill down through the core of the earth into the facility and cause a release.

It is exactly that type of speculation that has caused the National Academy of Sciences to say that reaching a conclusion on these types of assumptions is not possible in terms of predicting human behavior thousands of years into the future, and to say that for that reason it is hardly surprising that Congress would seek a resolution of these issues so that the EPA and that those conducting the studies do not have to go on with endless speculation about these types of activities, can make sensible, common sense analysis and move forward in a common sense way rather than going on with these irrational ideas about speculating about such highly remote possibilities. Those are the issues we are facing in this amendment. It is one more attempt to derail this legislation. Mr. Chairman, we should oppose this amendment.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] has 4½ minutes remaining, and the gentleman from Colorado [Mr. DAN SCHAEFER] has 6 minutes remaining.

Mr. MARKEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Nevada [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I thank the gentleman for yielding me the time. I think he hit the nuclear highlight right on the head today with setting the standards. The standards were set not by scientists, not by doctors who understand radioactive materials, but rather the Congressmen and women, sitting on the Committee on Commerce, established a bill with these radioactive standards in it.

Let me tell my colleagues what the standard really talks about here. We are talking about 100 millirems. The standard is clearly far above any other standard established in the law today; that was clearly pointed out by my colleague, the gentleman from Massachusetts [Mr. MARKEY].

Let me tell Members a little more about nuclear radiation and what one of these nuclear irradiated rods means to us.

Now, if you are a person standing one yard away from an unshielded 10-year-old nuclear rod assembly, you would get a lethal dose; that is, a deadly dose of radiation, 500 rems in less than 3 minutes, less than 3 minutes. A 30-second exposure at 100 rems, which is the



proposed standard that they have established, a 30-second exposure at the same distance at 100 rems would significantly increase the risk of cancer or genetic damage.

Mr. Chairman, we are talking about significant human risk, human life and the establishment of a new standard that was not set by scientific evaluation. It was set by the people on the Committee on Commerce. That is wrong. Vote for the Markey amendment.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, I yield to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I did not want to leave my friend from Massachusetts' comments unresponded to with regard to the thousand years. Here is what it looks like. Looks like the moon.

I would like to propose that we might get a unanimous consent amendment to put a statue of ED MARKEY out in front with some of the speeches that he has delivered. I can guarantee my colleagues that no one will be close to this thing for 2,000 years, let alone 1,000, and we will not need the Park Service to build a \$330,000 commode for 950 years from now. I wonder if the gentleman would object to such a unanimous consent amendment?

Mr. MARKEY. Mr. Chairman, if it is facing the Upton statue, I would be more than willing.

Mr. HALL of Texas. Reclaiming my time, Mr. Chairman, I do not know anything about statues, but I do not know anybody that runs roughshod over the gentleman from Massachusetts [Mr. MARKEY]. He stands his ground pretty well. Sometimes I agree with him; usually I do not. But I always respect him and admire him.

This amendment would strike H.R. 1270 provisions that limit the Environmental Protection Agency from setting radiation protection standards. Well, for them to set it, we charged EPA 15 years ago to develop a radiation standard for a Federal repository. They have yet to do so. I do not see any reason to ask them or to even seek their opinion, but it is asked.

EPA is involved in the standard setting practice by advising the Nuclear Regulatory Commission. And if the NRC believes a stricter standard is required to protect health and safety, the bill authorizes the commission to develop a stricter standard. So it gives more standards and more strictness to the bill.

NRC has testified before the Committee on Commerce and let me talk about that. Did we run roughshod over them? Listen to the testimony of Shirley Ann Jackson, NRC Chairman, April 29, 1997 in testimony regarding H.R. 1270 before the House Subcommittee on Energy and Power.

"The Nuclear Regulatory Commission notes the standard in H.R. 1270 of

an annual effective dose of 100 millirems to the average member of the general population in the vicinity of Yucca Mountain and views that standard as consistent with the protection of the public health and safety."

Not roughshod. What happened in the Committee on Commerce? We had this identical, I believe it was identical amendment in the Committee on Commerce about a month ago. It was voted down at least 2 to 1. This committee voted on this bill just recently, less than a month ago. They voted 43 to 3 for the standard that is in this bill.

□ 2030

I think it is obvious that this is an amendment that should be defeated, and I urge the defeat of the amendment.

The CHAIRMAN. The gentleman from Massachusetts, Mr. MARKEY, has 3 minutes remaining. The gentleman from Colorado, Mr. DAN SCHAEFER, has 3 minutes remaining.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Chairman, Lincoln is often quoted as saying, "A government of the people, by the people, and for the people shall not perish from this earth." Well, neither will radioactive waste.

If an accident should occur that exposes the public to spent nuclear fuel, the results could be deadly. A person standing one yard away from an unshielded 10-year-old fuel assembly could receive a lethal dose of radiation in less than 3 minutes, and exposure of only 30 seconds would significantly increase the risk of cancer or genetic damage. So the public ought to be fully informed of such risks.

The bill sets a standard which allows an annual radiation dose of 100 millirems per average member of the surrounding population, which is 4 times the amount allowed by current regulations for storage facilities. This exposure level is associated with the lifetime risk of one excess cancer death for every 286 exposed individuals.

If the population local to the interim dump site is to be exposed to this increased health risk, then they should be protected in every possible way.

I say support the Markey amendment.

The CHAIRMAN. The gentleman from Massachusetts, Mr. MARKEY, has 2 minutes remaining. The gentleman from Colorado, Mr. DAN SCHAEFER, has 3 minutes remaining.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. MARKEY] for yielding.

We have heard that the NRC says that 100 millirems is fine. But also, remember, I am from the State of Nevada. Remember what the Federal Government said back in the 1950s. They said above-ground nuclear tests, at-

mospheric tests, are safe. As a matter of fact, if we go out to the Nevada test site, we will see where the bleachers used to be where people used to put on, basically, these glasses with little slits in them and they used to watch above-ground nuclear, atmospheric nuclear tests. Ask the people in southern Utah if they trust the Federal Government to be setting a standard like this.

We are raising the standard simply because we need to for transportation. The international community, in Sweden the standard is 10 millirems, not 100, like this bill says; France is 25 millirems per year; Finland and Switzerland, 10 millirems per year; and Canada is 1 millirem per year.

Should we in the United States not protect our citizens the same as these countries? I urge a "yes" vote on the Markey amendment.

Mr. MARKEY. Mr. Chairman, I yield myself the remaining 1 minute.

Mr. Chairman, the people in Nevada and the people of this country were told in the 1940's and the 1950's that they were not going to be exposed to undue amounts of radiation when the nuclear test blasts were going off in that part of America.

Well, it turns out that this summer, after holding this information for the last 40 to 45 years, that the Federal Government now tells us that, in fact, millions of Americans were exposed to unhealthy levels of iodine, unhealthy levels of strontium 90 in locations that had never before been considered, not just in Nevada but all over the United States, wherever the plume of those explosions carried by the winds might have endangered health and safety.

Well, once again we have the Federal Government sitting here picking a start, 100 millirems. We decide, "Do not worry about it. Bring your children. Bring your pregnant wife. Do not worry about it." We have no right, we have no business, especially after what we have learned this past summer about what the Federal Government did in Nevada and surrounding States in the 1950's.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield the final 3 minutes to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Chairman, I rise in opposition to this amendment. I am on the Committee on Commerce. I am also a physician. And in looking at this legislation, I think it is reasonable, I think the standards are reasonable.

We are talking about 100 millirems per year. For the average American, the exposure from the sunlight is about 300 millirems per year, three times that amount. If one lives in a higher place, a higher altitude place like Denver, CO, we are talking about 400 millirems per year. If we are talking about a flight attendant, actually probably almost all our colleagues who have to fly in airplanes, we get higher doses than that. If we are talking about two chest x-rays, we are talking about 100 millirems. If we are talking

about a surgeon who works in an operating room where they take x-rays, we are talking about in excess of 100 millirems per year. This is safe.

But I also support the bill, and I think that we need to look at the safety that is built into this bill. The Nuclear Regulatory Commission has looked at these casks that this material is going to be transported in. That cask is literally stronger and more powerful than a locomotive. When a speeding 120-ton locomotive is crashed into a 25-ton nuclear waste cask at 80 miles per hour, the train is demolished but the cask is okay.

Other tests show that the cask is impervious to heat, including a 30-minute exposure to 1475 degrees Fahrenheit that engulfs the entire chamber. We drop that cask nearly 4 feet onto a 6-inch steel rod and it still does not leak.

Furthermore, Mr. Chairman, it is not that we have not seen a lot of transportation of nuclear material in the last 30 years. There have been, on an average, 100 trips per year by specially-trained crews, over 2,300 trips, and there has never been a leak or release of any radioactivity.

When we get right down to it, Mr. Chairman, we have to decide on a very important issue: Do we want this nuclear waste scattered around the country at 50 sites, close to Lake Superior, close to major population centers, or should we put it out in the desert away from the population centers in a safe place?

Mr. Chairman, I will tell my colleagues what the people of Iowa are telling me. They are telling me, put it away from where the people are, put it away from our Great Lakes, get it away from our rivers where, if an accident would happen, we would have a disaster; and put it into one place, put it into one place where it is efficiently and safely watched over.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MARKEY].

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. MARKEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 283, further proceedings on the amendment offered by the gentleman from Massachusetts [Mr. MARKEY] will be postponed.

It is now in order to consider Amendment No. 8 printed in House Report 105-354.

AMENDMENT NO. 8 OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. GIBBONS: Page 55, beginning in line 3 strike “, except that” and all that follows through line 21 and insert a period.

The CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Ne-

vada [Mr. GIBBONS] and a Member opposed each will control 10 minutes.

Mr. HALL of Texas. Mr. Chairman, I claim the time in opposition to the amendment offered by the gentleman from Nevada [Mr. GIBBONS].

The CHAIRMAN. The gentleman from Texas [Mr. HALL] will be allocated 10 minutes in opposition to the amendment offered by the gentleman from Nevada [Mr. GIBBONS].

The Chair recognizes the gentleman from Nevada [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

The amendment that I am offering today will protect the American taxpayers from being forced to pay out of their own pockets for a highly irradiated nuclear storage facility at Yucca Mountain, Nevada, thousands and thousands of years into the future.

Since 1987, the utility ratepayers have paid, yes, they have, based on electricity generated by nuclear power plants, into the nuclear waste trust fund. These funds were intended to be used for suitability study and construction of a deep geologic storage facility at Yucca Mountain, Nevada, for high-level nuclear waste. The fees were based on 1 mill per kilowatt hour; 1 mill roughly equals one-tenth of one cent.

Unfortunately, despite the presence of this trust fund, the nuclear power lobby is trying to force all American taxpayers to pick up the tab for transporting and storing this waste at Yucca Mountain. Why? Because nuclear waste translates into stranded capital cost for these energy companies.

The current Nuclear Waste Policy Act assumes that a permanent storage facility would be ready by 1998. However, this option is not available. The Nuclear Waste Policy Act states in section 111(a)(5) and 131(a)(1) that the responsibility for interim storage rests directly upon the generators of high-level waste. However, yet again, these poster boys for corporate welfare want American taxpayers to take all legal responsibility and provide the funding for this highly irradiated nuclear waste.

My amendment would delete the cap within the bill and give the Secretary of Energy the authority to assess a fee on the existing reactors to reflect the amount of funding needed in a given year to cover the cost of operating Yucca Mountain, thereby sparing taxpayers who have no stake in nuclear power or nuclear waste.

The problem exists as reactors shut down, Mr. Chairman, which will increase logarithmically into the future. This means that there will no longer be revenue generated nor a revenue stream to fund the development and operation of that repository for thousands and thousands of years following the last reactor shutdown. The likelihood of the utilities being able to cover the cost of permanent repository is very unlikely, and the financial burden will be shifted to the taxpayer.

A GAO study has estimated that the Yucca Mountain project construction cost will be nearly \$33 billion. There is only \$13 billion in the fund right now. The shortfalls would quickly appear if Congress should pass H.R. 1270 without this amendment.

The Congressional Budget Office states that the impact of carrying out H.R. 1270 would be a net discretionary spending increase of \$1.9 billion over the expected waste fund receipts during the 1998 to the 2002 period. While H.R. 1270 would change the financing of the nuclear waste program from a steady 1 mill per kilowatt hour fee to an adjustable fee tied to annual program appropriations, the bill also dictates that the average fee over the next 12 years cannot exceed 1 mill.

Moreover, as electricity deregulation continues and the higher-priced nuclear power is forced to compete with cheaper forms of generated electricity, it is probable that many nuclear reactors will be decommissioned before their licenses expire. One study predicted that 40 percent of operating reactors would shut down early and would therefore cease making contributions to the nuclear waste fund.

Without passage of this amendment, the nuclear waste fund will boil and distill down to Congress either making the taxpayers of this country pay for the storage and transportation of nuclear waste or abandon the project altogether.

The great people of Nevada do not benefit from nuclear energy, nor do States that lack nuclear power plants. Why should they be required to pay for a nuclear storage facility? Why should they be forced to spend their tax dollars to support a nuclear industry bailout?

At a time when Congress is making great strides to balancing the Federal budget, we should continue this laudable goal and allow the Secretary of Energy to increase the mill rate to protect the taxpayers of this country. It is for these reasons, Mr. Chairman, that I ask Members to protect the American taxpayer and make a common sense vote on a very important fiscal issue. I ask for their support and ask them to vote favorably for this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I yield myself such time as I may consume.

Let me say, this amendment would delete the 1 mill cap and permit the Secretary of Energy to assess a fee on existing nuclear energy plants to reflect the amount of funding needed in a given year to cover the cost of operations. Basically, that is what it does, but let us really analyze it.

First, they suggested to let the governor have veto power. That will flat kill it. Next, they are going to let FERC make some decisions that could cancel it. And now they are going to let the Secretary of Energy assess a fee, not only an illegal delegation of fees and of congressional authority.

□ 2045

It is not only an illegal delegation of fees and the congressional authority, the facts are hard and clear that sufficient funding exists already under H.R. 1270. The annual contribution of nuclear generated electricity consumers to the Nuclear Waste Fund would be based on the annual amount spent by the government to build storage and disposal facilities for used nuclear fuel. This amendment, so far as I read it, says, "We gotta collect more money because there isn't enough money to finish the program 30 years from now." The key argument against that is that we have collected over \$13 billion since 1983. We have spent \$6 billion, diverted it elsewhere. I think by 2010 the Nuclear Waste Fund balance is projected to be \$20.9 billion. That is enough to support an interim storage facility and begin operating a permanent repository, according to the DOE program cost projections provided to Congress in July of this year. Also there is already a provision in the bill to expand the \$1 million cap to \$1.5 million to pay for construction of central storage facilities. Mr. Chairman, the amendment is not needed. It is already provided for. We urge the defeat of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Las Vegas, Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Chairman, I thank the gentleman for yielding me this time. First we had environmental protections. They nixed those. Next safety, public safety, discarded. Next, States rights, 10th amendment, ignored. Also private property rights. They would not even allow us to have an amendment on this floor to debate private property rights. Gotten rid of. Lastly, Mr. Chairman, we have to at least support the taxpayer. Of anybody we have got to be concerned about on here, should we at least not be supportive of the taxpayer?

For crying out loud, what this bill does is says that when these nuclear power plants shut down, and they are going to shut down, and there will not be ratepayers to pay the bills to keep nuclear waste stored and to pay for that nuclear waste and there is not enough money in the trust fund and these ratepayers over the next years will not have enough money in the trust fund, when that happens, guess who ends up holding the buck? The person out there making \$30,000 a year, the middle income American that has everything on their shoulders already, that has this huge national debt already. Now we are going to pile more debt on them.

If Members consider themselves fiscal conservatives, and I do not know anybody in this body hardly that considers themselves anything but a fiscal conservative, but if you consider yourself a fiscal conservative, you have to

at least vote for this amendment. This bill is bad enough, but at least this amendment would give the taxpayer some sort of protection against the nuclear power industry shifting the burden from themselves to the taxpayer.

Mr. HALL of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I thank the gentleman from Texas for yielding me this time.

If Members want to stand logic on its head, take the argument from the last gentleman from Nevada and say what we are going to do is not the nuclear companies that are the power companies that have this, it is the ratepayers. Ratepayers are people who flip the switch on and expect the lights to go on and they also happen to be taxpayers. So the people who are getting gouged in this amendment are the taxpayers of this country, the ratepayers. What they really want you to do is say, now when you flick the lights on, not only are you going to have to pay, are you paying this contract that you had with the Federal Government and the Federal Government says you are going to take this waste and store it as of 1998, the Federal Government and these folks here say, you can just forget about that contract, that promise to the American people, and, by the way, we are going to ask for more money. But the real ridiculous issue here is they are going to ask for more money. They want more money from American ratepayers, American taxpayers? Mr. Chairman, we have paid in \$13 billion. Six billion of those dollars never went to the nuclear repository. \$6 billion went to the big spenders over here in the Federal Government. They have funded the United Nations with it. They have funded welfare programs with it. Now they want to fund more of their big government programs with it. I think we need to have some responsibility for the American taxpayer and the American ratepayer, those people who have to be responsible, that have to go out and earn a living, that carry a lunch box to work. By the way, they hope to have lights go on when they flip the lights on, they hope to have a safe place to live. They expect the Federal Government to carry out its promise, its Federal contract, to say they are going to take this nuclear waste and store it. Now all of a sudden they are saying, "Oh, by the way, we're going to change this bill. We're going to ask you to pay more."

Mr. Chairman, it is not right. We need to keep the contract with the American people. We need to dispose of nuclear waste in a safe way, and we need to move forward with it. I would ask that Members reject this very expensive amendment to the American people and move forward.

Mr. GIBBONS. Mr. Chairman, I would hope that the gentleman who just spoke would yield me the opportunity to offer him to give back all this money if he would keep his nuclear waste.

Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Chairman, utility bills will go up because of this legislation. Taxes will go up because of this bill. Utility profits and stocks will also go up. Is there a connection? It is an outrage that the American people will pay the price with their health, with higher utility rates and with higher tax dollars to dispose of waste which comes from commercial nuclear reactors. The Gibbons amendment seeks to mitigate this unfair condition by ensuring that there will be enough money in the Nuclear Waste Fund to pay for the safe disposal of high-level nuclear waste generated at commercial nuclear reactors. Let the nuclear utilities pay the bill for the nuclear dump, not the American taxpayers.

Mr. Chairman, the utilities exist for us. We do not exist for them. We give them the right to operate in the public interest, and we have the responsibility to protect the American taxpayers. There is a rather notorious nuclear reactor in northeast Ohio called the Perry Nuclear Power Plant. More than 20 years ago I stood on the grounds where Perry was being built to protest this project. It was supposed to have been 2 reactors at a price of \$1 billion, and it turned into one reactor at a price of \$6 billion. Guess what? The reactor was built on a fault line. Since then the nuclear utility company has gone down into the dumper and the stocks have gone down. It has almost gone bankrupt. But the taxpayers and ratepayers of northeast Ohio have had to suffer the consequences.

Mr. HALL of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I would remind my colleagues that the Nuclear Waste Policy Act of 1982 required that consumers of nuclear-generated electricity pay a fixed fee to the Nuclear Waste Fund for the government to manage for this program. Of the \$13 billion that has been committed to the fund since 1983, about \$6 or \$7 billion in fact has been used for other activities not relating to this one.

In 1982, I worked for President Reagan. I can remember his signing statement in 1982 when Congress passed that bill. Some of us here, not me, but some of the Members here voted for that bill, and President Reagan thought that in a few years this thing would be done. Here it is, 1997, 15 years later, we are debating a bill that, when enacted, still will not see this thing completed for another 10 or 15 years.

We do not need this amendment. The ratepayers are paying already tooth and nail for this program. Not all of the money has been spent for the program as it was originally intended. To lift the cap on this program is not necessary. I would urge my colleagues to vote no.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute and 10 seconds to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me this time.

This is a great amendment. This bill puts a cap on how much money is going to be collected for the permanent and interim storage facility, and then it says that the money for the permanent repository will be expended for the interim facility. Because of wholesale and pretty soon retail competition in the marketplace, we know that there are going to be fewer and fewer nuclear power plants because they cannot compete economically. Connecticut Yankee closed down this year. Maine Yankee is about to close. The only place from which you can generate revenues from this are nuclear power plants. All the other power plants do not have to kick in.

What is going to happen in the year 2002 is we may find that Yucca Mountain is not suitable, we will have run out of money, we will need more, there will not be any, we are going to have to pick a new State for the site. We know it will be a State with fewer than 3 Members of Congress. Maybe it will be a territory, I do not know, but once we do, we are going to have to go through the whole process again. Where will the money come from? Under the proponents' amendment, all of the money will come out of the taxpayers' pockets, even those that never had a single kilowatt of nuclear-generated electricity. That is wrong. The money should come from those that in fact enjoyed the benefit.

The CHAIRMAN. The gentleman from Nevada [Mr. GIBBONS] has 20 seconds remaining, and the gentleman from Texas [Mr. HALL] has 4 minutes remaining. The gentleman from Texas has the right to close.

Mr. GIBBONS. Mr. Chairman, I yield myself the balance of my time.

I urge every Member of this House to support the Gibbons amendment to this bill. Nuclear waste has a half-life of 10,000 years. The opponents of this measure are thinking 5, 10 years down the road. Who is going to pay for the 9,990 years remaining on this bill and on this nuclear waste tab? It is going to be the taxpayers if we do not pass this amendment. The shortsighted opposition certainly has not got the best interests of the taxpayers of America in sight. Vote yes on this amendment.

Mr. HALL of Texas. Mr. Chairman, I yield myself the balance of my time. Let me just address the matter of States rights a little bit, whether or not States rights have been violated. None of us want to violate States rights. We all claim to support States rights. Of course, some of us want to put national standards on them and other things to give them a little direction.

But which States are denied or which rights are violated? I do not think any

of them are because all States send a proportional group of selected Congressmen, each of them refigured and recalculated every 10 years when they do the census. This site was selected by that group of Congressmen 10 years ago. The 47 contiguous States, I think, that did not get selected have some rights, also. They have the right to expect safe transportation. The 47 contiguous States have the right to believe that zero transportation reports are true. The 47 contiguous States have the right, I think, to believe that the Nuclear Regulatory Commission and the Transportation Department would require and regulate very strict nuclear fuel shipments and that the commercial nuclear industry has safely transported more than 10,000 used fuel assemblies and 2900 shipments. None have resulted in the release of radioactivity.

All the States, all 50 of the States have the right to believe that the Department of Energy so far has conducted more than 170 public meetings about the transportation of used nuclear fuel across the country and all 50 States, contiguous States included, have the right to accept that H.R. 1270 would continue to permit States to choose alternate highway routes. No other hazardous material in the United States undergoes such rigorous transportation planning, even though only less than 1 percent of the 100 million packages of hazardous material shipped per year in the U.S. are used nuclear fuel.

I object to this amendment. I urge that we defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nevada [Mr. GIBBONS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GIBBONS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 283, further proceedings on the amendment offered by the gentleman from Nevada [Mr. GIBBONS] will be postponed.

□ 2100

The CHAIRMAN. It is now in order to consider Amendment No. 9 printed in House Report 105-354.

AMENDMENT NO. 9 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer Amendment No. 9.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. TRAFICANT:

Page 81, insert after line 13 the following:  
**"SEC. 510. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.**

"(a) IN GENERAL.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

"(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made

available under this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

"(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available under this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

The CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Ohio [Mr. TRAFICANT] and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment says if we do not buy America, we will in fact waste America. It also says if anyone affixes a fraudulent made-in-America label to an import, they will be tortured and planted for 10,000 years at Yucca Mountain.

Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado, Mr. DAN SCHAEFER.

Mr. DAN SCHAEFER of Colorado. I thank the gentleman for yielding me time.

Mr. Chairman, I did not claim any time in opposition, because I think it is a terrific amendment, and we over on this side are certainly willing to accept it.

Mr. TRAFICANT. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. HALL], the ranking member.

Mr. HALL of Texas. Mr. Chairman, I certainly agree, and compliment the gentleman on his consistent support of buy America.

Mr. TRAFICANT. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Michigan [Mr. UPTON], the author of the legislation.

Mr. UPTON. Mr. Chairman, I would say I do not think I have opposed one of the gentleman's buy America amendments in the years we have been together on the floor, and I look forward to voting for it tomorrow.

Mr. TRAFICANT. Mr. Chairman, with that, I urge an "aye" vote, and I yield back my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. UPTON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 283, further proceedings on

the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] will be postponed.

It is now in order to consider Amendment No. 10 printed in House Report 105-354.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BLUNT) having assumed the chair, Mr. MCINNIS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1270), to amend the Nuclear Waste Policy Act of 1982, had come to no resolution thereon.

#### REPORT ON NATION'S ACHIEVEMENTS IN AERONAUTICS AND SPACE DURING FISCAL YEAR 1996—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science.

*To the Congress of the United States:*

I am pleased to transmit this report on the Nation's achievements in aeronautics and space during fiscal year (FY) 1996, as required under section 206 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2476). Aeronautics and space activities in FY 1996 involved 14 contributing departments and agencies of the Federal Government.

A wide variety of aeronautics and space developments took place during FY 1996. The Administration issued an integrated National Space Policy, consolidating a number of previous policy directives into a singular, coherent vision of the future for the civil, commercial, and national security space sectors. The Administration also issued a formal policy on the future management and use of the U.S. Global Positioning System.

During FY 1996, the National Aeronautics and Space Administration (NASA) successfully completed eight Space Shuttle flights. NASA also launched 7 expendable launch vehicles, while the Department of Defense launched 9 and the commercial sector launched 13. In the reusable launch vehicle program, Vice President Gore announced NASA's selection of a private sector partner to design, fabricate, and flight test the X-33 vehicle.

Scientists made some dramatic new discoveries in various space-related fields such as space science, Earth science and remote sensing, and life and microgravity science. Most notably, NASA researchers cooperating with the National Science Foundation found possible evidence of ancient microbial life in a meteorite believed to be from Mars.

In aeronautics, activities included the development of technologies to improve performance, increase safety, reduce engine noise, and assist U.S. industry to be more competitive in the world market. Air traffic control activities focused on various automation systems to increase flight safety and enhance the efficient use of air space.

Close international cooperation with Russia occurred in the Shuttle-Mir docking missions and with Canada, Europe, Japan, and Russia in the International Space Station program. The United States also entered into new cooperative agreements with Japan and new partners in South America and Asia.

In conclusion, FY 1996 was a very active and successful year for U.S. aeronautics and space programs. Efforts in these areas have contributed significantly to the Nation's scientific and technical knowledge, international cooperation, environmental health, and economic competitiveness.

WILLIAM J. CLINTON.

THE WHITE HOUSE, October 29, 1997.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2746, THE HELPING EMPOWER LOW-INCOME PARENTS (HELP) SCHOLARSHIPS AMENDMENTS OF 1997 AND H.R. 2616, CHARTER SCHOOLS AMENDMENTS OF 1997.

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 105-357) on the resolutions (H. Res. 288) providing for consideration of the bill (H.R. 2746) to amend title VI of the Elementary and Secondary Education Act of 1965 to give parents with low-incomes the opportunity to choose the appropriate school for their children and for consideration of the bill (H.R. 2616) to amend titles VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools, which was referred to the House Calendar and ordered to be printed.

#### FORAGE IMPROVEMENT ACT OF 1997

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 284 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 284

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2493) to establish a mechanism by which the Secretary of Agriculture and the Secretary of the Interior can provide for uniform management of livestock grazing on Federal lands. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour, with thirty minutes equally divided and controlled by

the chairman and ranking minority member of the Committee on Resources and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed three hours. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Resources now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Before consideration of any other amendment it shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Smith of Oregon or his designee. That amendment shall be considered as read, shall be debatable for ten minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. If that amendment is adopted, the committee amendment in the nature of a substitute, as amended, shall be considered as the original bill for the purpose of further amendment. During consideration of the bill for further amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose of clause 6 of rule XXIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum, time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. MCINNIS] is recognized for one hour.

Mr. MCINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York [Ms. SLAUGHTER] pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this is a very simple resolution. The proposed rule is a modified open rule providing for one hour of general debate, with 30 minutes equally divided between the chairman and ranking member of the Committee on Resources, and 30 minutes equally divided between the chairman and ranking member of the Committee on Agriculture. After general debate, the

bill shall be considered for amendment under the 5-minute rule for a period not to exceed 3 hours.

The proposed rule makes in order the Committee on Resources amendment in the nature of a substitute as an original bill for the purpose of amendment. Furthermore, this rule provides that prior to consideration of any other amendment, a manager's amendment offered by the gentleman from Oregon [Mr. SMITH] or his designee shall be made in order and debatable for 10 minutes, equally divided between the proponent and an opponent.

Mr. Speaker, House Resolution 284 also provides that the Chairman of the Committee of the Whole may accord priority recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD. Furthermore, the rule allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill, and to reduce votes to 5 minutes on a postponed question if the vote follows a 15-minute vote.

At the conclusion of consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as have been adopted.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, the underlying legislation, the Forage Improvement Act of 1997, is a balanced, bipartisan bill, that assures some predictability to western ranchers' ability to plan for forage use.

This legislation will require the Forest Service and the Bureau of Land Management to coordinate their administration in the Grazing Management Program. Additionally, the legislation creates new discretionary authority for the government and ranchers to enter into cooperative management plans, where the rancher is meeting rangeland management goals.

These are important and significant reforms. Therefore, I urge my colleagues to support the rule and the underlying legislation.

Mr. Speaker, I would include for the record a letter from the National Cattlemen's Beef Association. The National Cattlemen's Beef Association is an organization that is urging all Members to vote aye on House Resolution 2493, the Forage Improvement Act of 1997. NCBA commends the gentleman from Oregon [Mr. SMITH], the Chairman of the Committee on Agriculture, and the gentleman from Alaska [Mr. YOUNG], the Chairman of the Committee on Resources, for their work on House Resolution 2493, and fully supports the balanced bipartisan bill they have reported out of the respective committees.

It makes several major changes, but assures some predictability to western ranchers' ability to plan for forage use, such as requiring the U.S. Forest Service and the Bureau of Land Management to coordinate their administration of grazing management programs.

Two, requires scientific monitoring of grazing conditions and allowing the agencies to coordinate monitoring with ranches and/or qualified ranchland consultants. Three, prohibiting subleasing of grazing allotments by absentee ranchers. Next, creating new discretionary authority for the government and ranchers to enter into cooperative management plans, where the rancher is meeting rangeland management goals. Next, codifying a new grazing fee formulated to ensure a fair return to the government and resulting in a 36 percent increase over the current fee.

Codifying the resource advisory councils, they are called RACS, with enhancements that will improve coordination and communication between the Federal agencies and regional, State and local levels on Federal land and management issues.

House Resolution 2493 does not affect existing multiple use activities like hunting and fishing, nor authorizations nor agreements set under other Federal or State laws. It does not amend the National Environmental Policy Act, it does not amend the Clean Water Act, it does not amend the Endangered Species Act or the Clean Air Act.

And though it does clarify that Federal employees cannot demand access across private property as a condition for obtaining a grazing permit, it does not prevent Federal personnel engaged in grazing administration activities access to do their work, nor does it limit public access to Federal lands in any manner.

When this resolution is brought before the House, I ask my colleagues to support it.

Mr. Speaker, I would like to reflect a statement of the chairman of the Committee on Resources, the gentleman from Alaska [Mr. YOUNG], and I would, first of all, like to commend the chairman. I think he has done a tremendous job. He has had a lot of different interests that he has had to balance, and I think this is appropriate to reflect his thoughts.

Mr. Speaker, the gentleman from Alaska [Mr. YOUNG] does rise in strong support of House Resolution 2493, the Forage Improvement Act, introduced by his good friend and colleague, the gentleman from Oregon [Mr. SMITH], the chairman of the Committee on Agriculture, who should be applauded for laboring tirelessly and putting together a bill that keeps controversy out and common sense in regarding grazing practices on our public lands.

The gentleman from Oregon [Mr. SMITH] has worked extensively hard to bring together the many sides of the grazing issue and has assembled a bill that helps a rancher whose livelihood depends on public land grazing without doing any harm to the range land resources. In fact, implementing this bill will ultimately improve the rangelands across the West.

Controversy and confrontation on grazing on public lands has been raging for years. It is clear that changes in

the current grazing laws and regulations are not only long overdue, but are absolutely necessary in order to resolve many of the grazing issues.

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H.R. 2493 makes these necessary changes. For example, this bill will bring economic stability to those ranchers who use Federal land for grazing, while at the same time generate additional revenue for the Federal Treasury. This will be accomplished by implementing a new grazing formula which is easy to understand, simple to track, and which charges a fair price to the rancher who buys access to forage from the Federal Government.

Furthermore, the changes found in H.R. 2493 will improve ranchland conditions by increasing the focus on science-based monitoring. For far too long and for a variety of excuses, the Federal Government simply has not done its job in assessing ranchland conditions to monitor.

The bill of the gentleman from Oregon [Mr. SMITH] puts the emphasis back to what actually exists on the ground, through a monitoring program that is scientifically based and which follows established protocols. This program will greatly enhance the decision-making process and help establish ranchland goals that are good for land and achievable.

Moreover, H.R. 2493 will establish a program of management flexibility to those ranchers who have demonstrated good land stewardship. This will help to keep the grazing in good and excellent condition.

This is a good bill whose time has come. It does nothing to harm the environment. In fact, it will improve ranchlands across the West. It treats the Western land grazer honestly and fairly, and in return the U.S. Treasury makes more money and gets improved ranchland resources. I urge my colleagues to support and vote for House Resolution 2493.

Mr. Speaker, I think it is interesting to take a look at the impact of multiple use on Federal lands, and where that concept came from. We have to look back in the history of this country. If we look back at the history of this country, there was a point in time where this country urged its citizens to settle the West: Go west, young man, go west.

In doing that, they tried to encourage their citizens to go out to the West and set down their stakes, grubstakes, so to speak. In order to do that, they felt, in order to entice their citizens to go to the West and settle this unknown land, they felt that they needed to give land grants.

A land grant of 160 acres, which was pretty typical in the State of Kansas, was enough for a family in those times to support themselves. But once you got into the mountains, into the rough terrain of the Rockies, 150 acres is what was necessary to feed one cow.

In other words, to sustain a family in the Rocky Mountains, as compared to

what is necessary to sustain a family in Kansas or the rich farmlands of Nebraska or Missouri, it took several thousand acres, compared to the few acres it took in those very agricultural land-rich States. So the government felt it did not have the political support, obviously the public support, to go ahead and give land grants of several thousand acres to people who settled in the Rocky Mountains, and thereupon the concept of multiple use was created.

Multiple use is very important. If we take a map of the United States and we take a look at the government ownership, we will find that by far, no comparison, by far the majority of land ownership by the government in this country is in the western half of the United States, not in the eastern half.

So as a result, for the people in the western half of the United States to live, the concept of multiple use, which includes not just grazing, and by the way, multiple use means a lot of different things to a lot of different people. It means the ability to hike on Federal lands. It means the ability to have minimum stream flows in our streams to help us protect our environment.

It means that every power line in my district, and by the way, my district, the Third District of Colorado, the Rocky Mountains of Colorado, is geographically larger than the State of Florida. Every power line, every TV tower, every highway, every drop of water, the water either originates, runs across, or is stored, all of this comes across Federal land. All of it is very dependent on multiple use.

I grew up in the Rocky Mountains. My family came to the Rocky Mountains in 1871. My wife's family came to the Rocky Mountains in 1872. I have a very close friend of mine, Al Stroobants, his family came many, many years, very similarly, generations of families out there in those mountains.

What is very, very important is that the concept of the government was it would be a land of many uses. What we see happening is people who do not understand the concept of multiple use, people who do not understand the concept of private property and the importance of it as a foundation for the freedoms in our country. They try and take away the multiple use on Federal lands and take away that sign that says, "You are now entering the Rocky Mountain National Park, a land of many uses," or those types of signs, and replace them with a sign that says "No Trespassing."

There are fearmongers out there who would make us think that there are cattle grazing every inch of the Rocky Mountains, that there are condominiums going up everywhere, that the water is being wasted and abused. Do not take these people on their word. Look at the proof of the pudding.

The proof of the pudding is in the hearts and souls of the people who are

descendants of the generations of the people who were persuaded by this very government in Washington, D.C. to go west. These people deserve the courtesy of having their bill heard.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong opposition to the rule and to the legislation that the rule would make in order, the so-called Forage Improvement Act. This rule is open in name only. Last night the Committee on Rules voted to limit the amendment process to 3 hours; not 3 hours of debate time but 3 hours in total. That includes voting time on any amendments and any other parliamentary motion or question which may arise during that time.

Three hours would be totally inadequate, given that the gentlewoman from Idaho [Mrs. CHENOWETH] alone has filed nine amendments, and other Members have filed an additional half-dozen. The ranking member of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY] offered three amendments to the rule last night in an attempt to allow sufficient time for all amendments to the bill to be fully debated on the floor. However, the majority refused to accept the ranking member's amendments to the rule.

Even if this were a carefully crafted bill, and it is not, that had moved through the committee process, and it did not, with ample legislative hearings, and there were not, in time for Members to consider it, the brief time for floor consideration that the Committee on Rules made in order last night would still be problematic. But the fact of the matter is that the bill was just introduced a month ago, was rushed through the Committee on Agriculture and the Committee on Resources with no legislative hearings whatsoever, and it shows.

I am left with the impression that the majority did not want the members of those committees to look too closely at what they were passing for fear that they might see it for what it is, special interest legislation that is a bad deal for the American taxpayer and a very bad deal for our environment. Rather than seizing this opportunity to enact genuine and positive reform of our grazing laws, this legislation undermines the management of Federal land resources by continuing the subsidized use of public lands for wealthy corporate interests.

The Interior Department Inspector General reports that grazing benefits go to a vast array of large foreign-owned companies and domestic corporate conglomerates, including a brewery, a Japanese land and livestock company, an oil corporation, and a life insurance company. These are not struggling family businesses or mom and pop ranchers, but multinational

corporations reaping huge profits, most of whom are engaged primarily in businesses that are wholly unrelated to ranching. Why should they not pay the market rates for the grazing rights on our Federal lands?

Every western State charges a grazing fee that is higher than the Federal Government. Several States charge six times as much. Yet, this bill continues that disparity with a new fee formula that does not even come close to reflecting the fair market value of the use of our public resources.

The Congressional Budget Office estimates that little additional Federal land revenues will be generated from this bill, and in fact, when the legislation's new administrative requirements on land management agencies are taken into account, the grazing program will lose even more money than it currently does.

This bill makes other modifications to the Federal land grazing program above and beyond its changes to the grazing fee formula. For example, it would allow ranchers with grazing permits to sublease their lands to private interests at a significant profit over what they have paid the Federal Government for the use. Yet, incredibly, the Committee on Resources failed to hold a legislative hearing on this bill, denying Members any opportunity to hear testimony on the far-reaching implications of this legislation.

Members should be aware that Secretary Babbitt has given notice that he will recommend a veto should this bill reach the President's desk. But this ill-advised legislation does not deserve to make it that far. Indeed, it should not even reach this floor, given the cursory exposure and debate it received in committee. Because of the truncated amendment process made in order by the Committee on Rules last night, I strongly urge my colleagues to oppose this rule and this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. MCINNIS. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Further proceedings on the resolution will be postponed until tomorrow.

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#### SPECIAL ORDERS

The SPEAKER pro tempore [Mr. BLUNT]. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.



# INSTABILITY IS THE ENEMY AND IT REQUIRES STRONG MILITARY FORCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. SKELTON] is recognized for 5 minutes.

Mr. SKELTON. Mr. Speaker, recently the aircraft carrier *Nimitz* sailed into the Persian Gulf ahead of its scheduled rotation. The purpose of the deployment was to warn Iran and Iraq against sending aircraft into the no-fly zone that the United Nations has mandated in southern Iraq since the end of the Persian Gulf War.

Two weeks earlier, Iran defied the ban and sent aircraft into Iraq to attack sites that anti-Iranian insurgent groups were using to stage raids. Iraq, in turn, was threatening to put up its own aircraft to defend its sovereignty against any further Iranian attacks. A strong word of U.S. caution, backed up by a show of military strength in the region, was necessary to keep Saddam Hussein in his box and to deter further Iranian adventurism.

Apparently, despite vocal protests from both sides, the mission has been accomplished since there have been no more egregious violations of the no-fly zone.

Mr. Speaker, such a use of U.S. military power to enforce stability in a tense part of the globe is not an isolated case. Just a year and a half ago the United States sent the *Nimitz* into the Taiwan Straits in response to China's threatening missile tests at the time of the Taiwanese election.

In recent months, the United States has carried on a large peacekeeping operation in Bosnia and a smaller mission in the former Yugoslav Republic of Macedonia; continued to guard against illegal arms shipments into the former Yugoslavia; sent forces to evacuate noncombatants from Zaire and Sierra Leone; supplied airlift for African peacekeeping troops in Liberia; sent forces to demine areas in Namibia; continued to provide humanitarian assistance to Kurdish evacuees from northern Iraq; and engaged in counternarcotics operations in South America.

Except for Bosnia, which appears destined to remain in the headlines for the foreseeable future, most of these operations get no more than an occasional article on the back page of the *Washington Post*. Many ongoing activities, perhaps equally important in bolstering international stability, do not even get that much attention unless something goes wrong, activities like support for mine clearing in Namibia, which was the mission of personnel who were tragically lost when their aircraft crashed on its return flight a few weeks ago.

Today, the U.S. military is carrying out scores of what have come to be called "engagement missions," joint exercises with foreign military forces, humanitarian operations of various kinds, port visits by U.S. ships, officer

exchanges, sharing of intelligence, and many, many other activities.

Collectively, all of these activities come at a high cost both in money and in the demands on the U.S. military personnel around the globe.

The benefits of these missions, however, are far greater than their costs. As my fellow Missourian Harry Truman once said, "We must be prepared to pay the price for peace or surely we will pay the price of war."

Today the price of peace is this: That the United States must continue to play the leading role in building and maintaining international stability. In order to fulfill that responsibility, the Nation must maintain substantial, well-trained, well-equipped military forces capable of engaging in military actions across the entire spectrum of missions from delivering humanitarian supplies, to showing the flag, to peace enforcement operations that may be as intense as a major theater war.

Unfortunately, I do not think that the need for the United States to play this role and to maintain sufficient military strength to do it is fully understood either in this Congress or among the public as a whole. Moreover, I do not think that either the Clinton administration or the Bush administration has done a particularly good job of explaining the missions of U.S. military forces in the post-Cold War world.

Today, I want to address one of the principal reasons for maintaining U.S. military strength, that global instability will present dire threats to American interests unless the United States actively addresses it.

Since the end of the Cold War, many people have questioned the need for the United States to maintain strong military forces and to preserve its military abroad. Now that the Soviet Union is gone, they say, where is the enemy? And why do we need to spend so much money on defense when no single powerful foe or group of foes can easily be identified?

My answer is that there is indeed an enemy and it may be more insidious than ever precisely because it is so difficult to perceive clearly. The enemy is instability and requires as much vigilance as any more conventional foe has ever required.

Mr. Speaker, let me begin by drawing a simple lesson from the recent events in the Persian Gulf and from my last year's stare-down with China. In the Persian Gulf, the rules are clear. Both Iran and Iraq know that a no-fly zone remains in place south of the 33rd parallel and that any military aircraft flying into the area may be shot down without warning.

In Asia, the formula for addressing the status of Taiwan that has been accepted by the United States and others for many years is to say that both the government of Beijing and the government of Taipei regard Taiwan as part of China and that the status of Taiwan will not be resolved by force. The rules with regard to Taiwan, therefore, are

also clear. China has undertaken not to use force, and the United States has not supported Taiwan's independence.

Even though the rules are clear in the Persian Gulf and in Taiwan, however, recent events illustrate a simple point—that in international affairs, the rules are not self-enforcing. On the contrary, without constant, direct U.S. attention and leadership, the forces of disorder—always testing the limits—would eventually prevail. In the Persian Gulf, Iran and Iraq would soon drive the region into chaos and hope to benefit from the disruption of oil supplies to the rest of the world. In Asia, China would prefer to have a free hand to dominate the region, which is not a prescription for peace. Peace and stability are not the natural order of things. On the contrary, instability will always rise, like entropy in the realm of physics, unless energy is constantly applied to preserve order.

This lesson is an obvious one—and the use of the *Nimitz* to support U.S. security objectives is a clear and evident example of the importance of U.S. military power. But U.S. military power is also important in a host of other, less apparent ways.

Consider, for example, the implications of the recent U.S. agreement with Japan on defense cooperation. What is important about the agreement is not in the details—how Japan will provide support for U.S. military operations, whether Japan can opt out of supporting U.S. forces in certain cases, whether more should have been agreed on issues like missiles defense, and so on. What is most important is the fact of the agreement itself. The agreement reaffirms the fact that Japan sees its security relationship with the United States as the bulwark of a secure international order in Asia even after the Cold War has ended.

That the Clinton Administration was able to reach this agreement with Japan is, it seems to me, a triumph for American security of no small order. It came after several years of conflict with Japan over trade issues, during a time when China is beginning to flex muscles and is starting to build up its military capability, and in the face of grave doubts around the world that the United States would maintain its international leadership. Any or all of those factors could have led Japan to conclude that the security treaty with the United States was too weak a pillar on which to continue to rest its security policy. The agreement was the result of several years of effort on the part of senior officials in the Defense Department and in the Department of State, beginning with the so-called "Nye report" of 1995, named after former Assistant Secretary of Defense Joseph Nye, which forcefully reasserted the U.S. security interest in Asia and promised a continued, large and powerful U.S. military presence in the region.

I believe that the new U.S.-Japan security cooperation agreement is a cornerstone of stability in Asia precisely because it binds the United States and Japan together more closely. It means that Japan will not feel itself forced to develop an independent military capacity that would be threatening to others in the region. It means that North Korea will be discouraged from thinking that it can divide South Korea's allies. It means that China will have less reason to believe that it can use military strength to build a position of dominance of the in the Region. It means that for other nations in the region, the United States

will remain, for the foreseeable future, the ally of choice in determining whom to support if tensions rise over any number of issues. As a result, a great deal has been accomplished to prevent instability in the region from growing.

All of this, it seems to me, has been achieved only because the United States made its commitment to the region so clear, both in the words of the Nye report and in the substance of the continued U.S. military presence in the region.

Contrast the positive Japanese view of its alliance with the United States with the attitude of France, another key ally. The French for many years have been of the view that the United States will eventually turn away from its active leadership in international security affairs and leave Europe to the Europeans. I believe that judgment is wrong, but it appears nonetheless to guide French foreign policy, and the result has often been troublesome. Most recently, for example, the French have backed away from their commitment to rejoin the NATO military command structure because they object to continued U.S. command of the NATO southern region. More distressing to me is that President Chirac has made recent trips to China and to Russia in which he has said that France's interests and the interests of other nations would be served by the evolution of a multipolar world in which France would maintain close bilateral ties with other coequal powers. This is, of course, a very thinly veiled criticism of a unipolar world presumably dominated by the United States.

Fortunately, other major U.S. allies in Europe understand that the United States is not a domineering, lone, superpower, but rather the bulwark of an international effort in which the realm of peace and prosperity can grow and the realm of conflict and impoverishment can be contained. Most importantly, other allies also believe that the United States will continue to play a leadership role in building and maintaining a new post-Cold War security system throughout Europe and will be active in the rest of the world as well. The key to preventing destabilizing conflicts in Europe and elsewhere is to maintain a system of alliances in which the United States is inextricably involved. And in order to maintain such alliances, the United States must continually show the allies that it is resolved to stay involved and to maintain its military capabilities.

In emphasizing the critically important role that U.S. military strength plays in promoting stability, I am not, of course, suggesting that the United States can or should try to respond to every conflict around the world. As every president in recent years has affirmed, we are not a global policeman. It is important, however, first, that we understand how instability even in remote parts of the world may threaten our security and, second, that we continue to devote sufficient resources to defense to continue our active leadership role.

For much of its history, the United States thought of itself as being insulated from conflicts abroad by our favored geographical position as a rich continental nation protected by wide oceans. The one permanent goal of U.S. policy was to ensure freedom of navigation. The twentieth century, however, has brought our relative isolation to an end. Ever since Pearl Harbor, Americans have understood that our security cannot be separated from the security and stability of key regions overseas.

In recent years, every major development in technology, communications, transportation,

and even in culture has served to shrink the globe still further. Today, the security of America is affected, directly or indirectly, by all kinds of developments overseas. We understand, of course, that stability in Europe, East Asia, and the oil producing areas of the Middle East is critical to our security and our economic well-being. Many, many areas of the globe that we once considered of only remote interest, however, are becoming increasingly important as well.

North Africa is a case in point. With the World Trade Center bombing, terrorism fostered by religious extremism in North Africa came directly to the United States. Moreover, we have struggled for years with the threats posed by the Government of Libya and now by the extremists in charge in the Sudan as well. The same Islamic extremists as in Sudan murdered the late Egyptian President Anwar Sadat and continue to threaten President Hosni Mubarak and destabilize Egypt. The combination of poverty, explosive population growth, and ideological warfare that is plaguing the southern rim of the Mediterranean, therefore, is not something we can safely ignore. Instability in that part of the world will inevitably affect the prosperity and the safety of Americans unless its consequences are addressed. A secure and economically advanced North Africa would be a great boon to Europe and to the rest of the world, while a North Africa descending into chaos will threaten us all. What we can do to resolve the horrible civil war in Algeria may be limited. We are working with our allies to help broker peace, and we should continue to do so. Most importantly, we must continue to be engaged with Egypt and other critically important, friendly nations in the area to help bolster their security.

In an even more distant part of the world, Central Asia, U.S. interests are also more and more obviously at stake. Azerbaijan, Turkmenistan, and Kazakhstan have inherited some of the largest as yet unexploited reserves of gas and oil in the world. For these emerging nations, such resources may be a source of wealth that can spur economic growth and bring full integration into the world community. But such resources may also occasion internal conflict and incite external exploitation. Our principal goal is to ensure that the resources of the area are not dominated by a hostile power and that access is free and open. Thus, the United States clearly has an interest in promoting peace in the region, in strengthening the fragile governments of the area, and in building regional security. Much of the work to be done is diplomatic and economic in nature, but a military component is important as well. Military-to-military ties are potentially of immense value. Recently, the United States Central Command carried out a joint exercise with Kazakh armed forces that received a great deal of positive attention in the area. Most importantly, U.S. leadership is critical in building the institutional framework which will bind the emerging nations of the region to the prosperous, secure part of the world. All of these nations have participated in the North Atlantic Cooperation Council, the Partnership for Peace, and the strengthening Organization for Security and Cooperation in Europe. The United States had the vision and the international stature to forge these new institutions, and only continued U.S. military engagement in such organizations can keep them vital.

Finally, U.S. interests are affected by developments in distant parts of the world because of the global nature of challenges ranging from the proliferation of weapons of mass destruction and weapons delivery systems, to terrorism, to information sabotage and warfare, to the narcotics trade and other international criminal activities. There are no simple technological fixes to any of these problems that will allow the United States the luxury of disengagement from potentially messy conflicts throughout the world. The main cause of proliferation lies in regional conflicts which lead both would-be aggressors and threatened victims to seek security by gaining access to advanced weapons. Terrorism is, in large part, an outgrowth of local conflicts and social disintegration. Threats to information security may come from many sources, including systematic efforts to disrupt western economies by rogue states or by small non-state groups. Narco-terrorism has undermined democracy in parts of Latin America. Colombia is close to collapse. If it goes, several nations may follow—for example, Venezuela, which provides the U.S. three million barrels of oil daily. International criminal activity is a threat of free economic activity in large parts of the world, and it may damage U.S. security by undermining economic stability in many newly emerging nations.

While none of these challenges can be decisively defeated by a swift military strike, U.S. economic, political, and military engagement throughout the world is essential to combat the most serious threats. I am concerned, however, that we may, over time, fail to maintain the level of engagement that is necessary. Two potential failures, in particular, worry me.

One is a failure of understanding. Too often the debate about U.S. military spending and about the role of U.S. military forces in the world seems to me to miss the key point. As I said earlier, many of my colleagues too easily dismiss concerns about the state of our armed forces simply by asking "who is the enemy?" Others oversimplify the debate by pointing out that the United States now spends vastly more on the military than various combinations of potential foes. Both of these arguments are entirely beside the point. Today, instability is the enemy, and it is a very dangerous and pernicious enemy. As a result, how much we need to spend on the military is not a function of how much or how little others spend. Our defense requirements are determined by the strategy we need to follow to cope with a world full of uncertainty and danger. We need sufficient forces, fully engaged around the world, to prevent conflict with arising where possible, to deter conflict if it appears about to break out, and to prevail if conflict does arise. If this costs more than North Korea or Libya spends on the military, it should not be surprising.

Another failure of understanding is to argue that the United States should no longer have to play as active a leadership role as it did during the Cold War. Many of my colleagues argue that the allies should be required to bear a larger part of the burden of ensuring international security, especially in responding to regional conflicts that require peacekeeping forces or a constant military presence. Some say that the United States should focus on preparing for large scale regional conflicts and should leave smaller scale operations to others. My view is precisely the opposite—that

the United States may have to play a more active leadership role than ever now that threats to international security are more ambiguous. As I explained earlier in this speech, the reasons ought to be apparent—only the United States has the ability to project power sufficient to deter threats to the peace in regions like the Persian Gulf or the Taiwan straits; only the promise of continued, active U.S. military engagement in key regions will gain cooperation from major allies and maintain the U.S. position as the ally of choice when conflicts arise; U.S. security interests are directly threatened by challenges even in distant parts of the globe, and only U.S. leadership can build the institutional framework needed to bring stability; and new global challenges across a wide spectrum threaten the United States in ways that require direct involvement.

Let me make one other point to those who are concerned about burdensharing. I agree that we should expect allies to contribute fully and fairly in maintaining international stability. But I also believe that only American leadership can ensure effective allied cooperation. In Bosnia, for example, the allies were willing to commit forces for several years, but without bringing about a peace settlement. Only when the United States became directly involved was a resolution achieved. Moreover, no other nation could design the architecture of a new regional security order as the United States has done in Europe and is working to do in Asia. In a way, there is a paradox to burdensharing—if we want the allies to do more, then we probably have to do more too.

The final failure with which I am concerned is a failure to provide adequate resources. I began this speech by making note of the role the aircraft carrier *Nimitz* has played in deterring conflicts. Today, we are running on the very edge of sufficiency in the number of carriers we keep in the force. We no longer maintain a permanent carrier presence in the Mediterranean and the Indian Ocean—instead, we swing carriers periodically from one area to the other, and we surge into a region if circumstances require. At best, this is barely adequate. I am concerned that long-term budget pressures will erode the size of the Navy to a level that will not allow even the current amount of coverage. Even if we do not reduce the number of carriers, we are reducing the number of other ships in the Navy—within five years, we will be down to 300 ships, substantially below the level of about 330 that the Clinton Administration said was needed when it first came into office, and the currently planned pace of shipbuilding will support no more than a 200 ship fleet in the long run. Our military presence in Asia—a presence that gave Japan confidence enough to revitalize the alliance—will be in danger.

Moreover, throughout this statement, I have emphasized, time and again, the value of U.S. military engagement all around the world. But one outcome of the Pentagon's recent Quadrennial Defense Review—the "QDR"—was to acknowledge the strain that the current high pace of military operations is placing on our troops, especially on those based abroad in Europe and elsewhere. As one way to reduce the strain, the QDR called for a limit on the number of "engagement" exercises that the regional military commanders had earlier been free to undertake. I am not arguing that this is the wrong thing to do—on the contrary, I

strongly support the Defense Department's efforts to reduce the pressure on military personnel. But the need to limit such exercises points to the simple fact that the size of the force today is, at best, barely adequate to meet peacetime requirements while preparing for major regional conflicts. Defense budget constraints, I fear, will force further cuts in the size of the force in the future, with a devastating effect on our ability to cope with instability around the world.

Mr. Speaker, today the United States has an opportunity to promote a more peaceful, stable world than those of us who lived through the troubling middle years of the 20th Century would ever have thought possible. To do so, however, requires constant vigilance and permanent U.S. engagement abroad. The world will never be entirely at peace. With continued American leadership, however, the threats to peace can be contained, and the realm of peace and prosperity can grow. This requires that the citizens of the United States and the Members of this Congress understand that instability is the enemy and that sufficient resources are needed to combat it.

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mrs. MORELLA] is recognized for 5 minutes.

[Mrs. MORELLA addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

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#### IMPRISONED CHINESE PASTOR XU JONGZE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 5 minutes.

Mr. DELAY. Mr. Speaker, once again I rise to call attention to the plight of those persecuted for their religious faith in China, particularly Pastor Xu Yongze. This marks the third occasion on which I have taken to the floor to address Pastor Xu's imprisonment, and I will continue to speak out until Chinese authorities release Pastor Xu.

Tomorrow morning, Mr. Speaker, I will be eating breakfast in my office by myself. As I announced earlier today, I have reluctantly but resolutely decided that I must boycott the congressional leadership breakfast with Chinese President Jiang Zemin. I fear that the Chinese Government's intransigence leaves me no other choice because for months I have engaged in quiet, respectful diplomatic efforts to secure Pastor Xu's freedom. Many of my colleagues have as well.

Mr. Speaker, we have written to the Chinese leadership. We have discussed our concerns in meetings with Chinese officials and we have sent very clear, consistent signals about the importance of Pastor Xu and religious liberty in China.

We are not alone. Many religious human rights and business leaders have also informed the Chinese Government of their concern for Pastor Xu. Pastor Xu is not the only one to be afflicted. I am told that at least 200 other

Protestant and Catholic leaders are currently imprisoned in China simply for the peaceful practice of their faith.

Thousands, perhaps even millions of other Christians suffer beatings, detentions, and severe fines if they do not submit their religious activities to government control.

Mr. Speaker, I speak out for Pastor Xu because he is perhaps China's most prominent minister and because his plight symbolizes the suffering of so many other precious believers in China. Pastor Xu and the millions of other believers like him have no political agenda. Indeed, they only regard politics as a distraction from their true calling to preach the gospel and worship their lord.

Now, I am baffled, Mr. Speaker, as why the Chinese Government continues to insist on imprisoning and mistreating Pastor Xu and so many other innocent believers like him. China has demonstrated admirable progress in economic reform and security concerns and several other areas, but when it comes to religious liberty, China has tragically regressed.

I truly desire engagement with China and a positive relationship based on mutual respect. But on this matter, China has shown no respect for our concerns. And so, Mr. Speaker, I am left with no other choice. My principles as an American and my conscience as a Christian will not allow me to meet with President Jiang Zemin in the morning.

Mr. Speaker, let me be very clear. I do not oppose dialog with China. I welcome such opportunities and I hope that my colleagues who do attend that breakfast find that the discussion is substantive and fruitful. But I also hope that I will have opportunities to engage in further dialogue with China's leadership myself, and I urge those who do meet with President Jiang to raise forcefully the plight of the suffering church.

Finally, Mr. Speaker, let me humbly but earnestly suggest to my colleagues and to the American people that we remember Pastor Xu and the believers in China in our prayers. And I pray that as Pastor Xu languishes alone in prison he will know that he is not forgotten. I pray that as Jiang Zemin returns to China, he will know that Pastor Xu will not be forgotten.

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

[Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SAXTON] is recognized for 5 minutes.

[Mr. SAXTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

SHOWCASING OUR STATE OF  
SOUTH DAKOTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota [Mr. THUNE] is recognized for 5 minutes.

Mr. THUNE. Mr. Speaker, when I came here to Washington, it was for the purpose of trying to bring some common sense to this institution and to this city. I believe that it is infinitely better for my children and for the children of this country and our grandchildren if we can have a Federal Government that is more efficient, that is more responsive, that is smaller, and if we can restore discussion and debate about values to our culture.

Somehow we have gotten to a point in this country where we can accept the fact that if we are willing to write a check to the IRS, it removes us from the responsibility that we have to be good citizens, to work in our communities and our churches, to be good strong family leaders. That is a trend that I believe we need to change and something that we are making progress on. Significant progress.

Progress on issues like welfare reform; the first balanced budget for some 30 years; the first tax cuts in 16 years, since 1981; Medicare reform; important reforms in the area of education that address values that we share, values like parental choice, like trying to give the taxpayers the best value for their dollar and provide the very highest quality education that we can for our young people.

Mr. Speaker, this weekend I had the opportunity to go back to my home State of South Dakota and to hunt pheasants on a beautiful, crisp, clear day. I should not say it was entirely clear; it was crisp. We were out in the fall of our State and enjoying something that has become a ritual and tradition in South Dakota, and something where government has worked together in a constructive way with landowners, with conservationists, with sportsmen's groups, with our State government, local government, farmers, ranchers to do something that has been very, very important to the economy of our State of South Dakota.

Mr. Speaker, we have seen growth in that industry that has nearly doubled the revenues that are generated in our State; some \$70 million a year from the process of pheasant hunting in South Dakota. And \$70 million in South Dakota is a lot of money. I think that stands as a model of the way we can work together to address some of these issues on areas where we have common conflicts.

Sometimes we get crosswise between environmental groups and between landowners in certainly our State of South Dakota, but it was a great experience and we had a wonderful time and we had an opportunity to showcase our State.

□ 2145

We have a number of other important challenges ahead of us, if we are going

to complete the task of trying to make government simpler and less complicated for the people of this country.

I had an opportunity to visit with someone in my State who is a small business person whose business was just acquired by another business. I was listening to, as a condition of the sale, I was listening to the discussions that he held that they had to do an environmental analysis. In this environmental analysis they found that the air conditioner that was sitting outside the building was dripping onto the ground and they decided that that was causing distress to vegetation. So what was the solution?

Because it was dripping onto the ground in one spot, they decided to take a 12-inch-by-12-inch concrete slab, 2 inches thick, and to place it on the ground there. And somehow that was the solution that there would be less distressed vegetation with a 12-by-12 concrete slab than there would be with the drip drip that was a pinpoint drip from the air conditioner. I thought to myself, that is a perfect example of a regulation that certainly goes beyond the pail in terms of any rationale or common sense that might be there.

One of the areas that we are going to talk about in the next few weeks and something that I think is long overdue is a discussion of how we can reform the IRS, restructure it and generate a long-term discussion about how we make our Tax Code simpler, less complicated and fairer and hopefully eliminate the enormous amount of time and energy and resources that are spent each year by the people of this country in trying to comply with a Tax Code that clearly has gotten out of control.

Just as an example, we have 480 tax forms in this country. The form EZ, which is the simple form, that has some 31 pages, 7½ million words in our Tax Code. In fact, the estimates have been, the Kemp Commission found that we spent over 5 billion man-hours a year doing nothing but filling out tax returns, some 3 million people in the process of filling out returns which, interestingly enough, is more people than we have in our entire armed services, which means one thing, that is, we spend more time, energy and resources and dollars defending ourselves from our own Tax Code than we do from foreign enemies.

I think that is ironic. I think it speaks volumes for the need for change in this country. I think that one of the reasons we have this complicated Tax Code is that command and control here in Washington, DC; there is so much internal resistance to change in this city.

I was reading recently, as well, that in 1964 there were some 16,000 lobbyists in Washington. Today there are over 64,000. The proliferation of lobbyists, in my view, I believe supports the fact that we have a complicated government and a complex Tax Code and most lobbyists spend their time trying to figure out loopholes and exemptions from our current Tax Code.

So it is high time we engage in this debate. It is happening around the country. It is happening in a way which I think hopefully will give us some solutions that come from the ground up, where the people of this country engage in this issue and say, this is what we want to do. I am proud to be a part of that debate. I look forward to having some discussions of that in my home State of South Dakota.

The SPEAKER pro tempore (Mr. BLUNT). Under a previous order of the House, the gentleman from Ohio [Mr. KUCINICH] is recognized for 5 minutes.

[Mr. KUCINICH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Washington [Mrs. LINDA SMITH] is recognized for 5 minutes.

[Mrs. LINDA SMITH of Washington addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

[Mrs. CLAYTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

[Mr. KINGSTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Puerto Rico [Mr. ROMERO-BARCELÓ] is recognized for 5 minutes.

[Mr. ROMERO-BARCELÓ addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 5 minutes.

[Mr. RIGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. McNULTY] is recognized for 5 minutes.

[Mr. McNULTY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

[Mr. SMITH of Michigan addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Ms. PELOSI] is recognized for 5 minutes.

[Ms. PELOSI addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

[Mr. WELDON of Pennsylvania addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

[Ms. DELAURO addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mrs. JOHNSON] is recognized for 5 minutes.

[Mrs. JOHNSON of Connecticut addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for 5 minutes.

[Mr. GUTKNECHT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

#### ON SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. SANFORD] is recognized for 5 minutes.

Mr. SANFORD. Mr. Speaker, I have before you a bill that I introduced today. It is a bill that would put the worst insomniac in the world to sleep. I look here at 160 or 170 pages that by themselves are long and boring pages. And yet what this bill is about is, in essence, I think something that is very exciting. That is, I think that this bill, which is a bill to save Social Security, is a bill about the American dream.

Because if you were to stop and think about it, I think that what we would all agree upon is that a part of the American dream is tied to ending a lifetime of work with something more than just memories. And yet for many Americans, in fact, we pulled the number at home in my State of South Carolina.

Last year, about 38,000 people died and only about 243 filled out Federal estate tax returns, which says to me that something is wrong, because clearly for that small a number, 38,000 people died but 243 filled out Federal estate tax returns, which means in the eyes of the Federal Government they had accumulated enough in the way of assets to hold an estate that ought to be taxed. It says that something is wrong in fulfilling that part of the American dream that ties straight to ending a lifetime of work with more than something other than just memories.

What is interesting about that is that a lot of people are beginning to recognize it. It has been constantly something that comes up in my congressional district back in South Carolina. Folks say to me, both young and old, the young folks say, I do not think I am going to get my Social Security when I grow up or when I finish working or when I retire. Older folks are saying, what I am hearing from my grandson or my granddaughter is that they do not think they are going to get their Social Security. And not only is it being heard in essence from the right, I guess is where I come from, but from the left.

I mean somebody like Sam Beard, a person who I have been working very hard on this idea of saving Social Security. Sam Beard comes from the opposite political philosophy of my own. He was a staffer for Robert Kennedy. He spent his entire lifetime working, trying to do something about the inner cities. He thinks that one of the only ways that you save the inner city is with this idea of personal savings accounts, which is what is talked about in this bill.

Because right now, though April 15 is a big day, April 15 is really an insignificant day when you think about overall tax rates in this country, because for 70 percent of Americans, the largest tax that they will pay is not income tax but payroll tax. And with Social Security 12 percent or, to be exact, 12.4 percent comes right off the top, not on April 15 but on every single working day.

What the trustees have said is with that 12 percent that is going toward one's retirement plan, what they have said is that if we do nothing to save Social Security, it goes bankrupt in about 30 years and it begins running structural deficits in about 15, such that either you have to look at cutting benefits by about 14 percent or raising payroll taxes by about 16 percent.

Both young people and old people that I talked to at home in South Carolina say neither of those are great options. What the trustees have also said is that the overall rate of return for everybody working and paying into Social Security today is 1.9 percent. And that everybody born after 1948 will get a negative rate of return on their Social Security investment. Again, these are not numbers that tie to people

being able to live out the American dream in their retirement years.

So either you can wait and do nothing, which might be the conventional political wisdom in Washington, or you can look at cutting benefits, which I do not think is acceptable, or you can look at raising payroll taxes, which I do not think is acceptable, or you can try one other thing. It has been tried around the world.

That is, letting people earn more than this 1.9 percent or more than this negative number on their Social Security investment. That is what this bill does. What it does is simply offers people a choice. Everybody above the age of 65 would simply stay on Social Security as we know it. But people below that age would simply have a choice. That is, if they thought Social Security made more sense for themselves and their families then they could continue to stay on Social Security as we know it. But if they thought it did not, they could, instead of having their payroll tax go to Washington, it could be redirected into their own personal savings account that they owned and controlled and got a monthly statement on.

That is not such a crazy idea because it has been a well-tested idea. It has been an idea that Great Britain has moved toward. It has been an idea that seven countries down in South America have moved toward. It has been an idea with 3.5 million workers in our own country that has been in essence tested. This is the beginning of a conversation about the American dream.

#### ACCOMPLISHMENT OF THE HEALTH CENTER PROGRAMS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Illinois [Mr. DAVIS] is recognized for 60 minutes as the designee of the minority leader.

#### GENERAL LEAVE

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Mr. Speaker, about 30 years ago, there emerged on the American scene, as a result of the civil rights movement, demonstrations, marches, protests, action on the part of the United States Congress, initiation of the war on poverty, there emerged a new set of health service delivery mechanisms, something that we today know as community health centers. They started out with the name neighborhood health centers as part of the OEO antipoverty program.

Every community that OEO would go into, making an assessment to look at the issue of poverty, there would always emerge the issue of a lack of

health care resources, the issue of there not being services available to the people who lived in inner cities and rural communities. As a result of that, these pioneering centers came on the scene.

Today I rise to underscore that they are indeed a vital component of our health care system and one that focuses on providing the access to primary and preventive health care services that coverage alone cannot assure. As we all know too well from our experience over the years with Medicaid, the possession of an insurance card will not necessarily guarantee Americans access to health care. Nowhere is this more true than in our inner city and rural, medically underserved communities.

I had the good fortune of taking a job at the Martin Luther King, Jr. Neighborhood Health Center in the City of Chicago as its director of training, which sharpened my interest in health care, and ultimately continued to work in that area and had the good fortune to see the emergence and development of this group of inner-city, rural migrant health programs throughout the country, got involved and eventually became, after the group had developed, a national association which even to this day still exists, is very vibrant, viable and a valuable part of the American health care delivery system.

Every place that we went we found that underserved communities desperately need the health care system to deliver three things:

One, the presence of a medical home that offers high quality care regardless of a person's health or social status or his or her ability to pay for services and that is accessible in terms of location of hours of service for those who do not have private transportation or cannot take time off from the workday.

Second, adequate numbers of highly trained, culturally competent health professionals to staff these facilities; and, thirdly, the assurance that their medical home will not be driven out of business due to excessive financial risk or inadequate reimbursement simply because they care for those who are the sickest and hardest to reach.

I strongly believe that our health system should be built and should build on what works. Among the programs that have worked best for the underserved are the community migrant and homeless health center programs. Over the past 30 years, these centers have established an unparalleled, uniquely successful record of providing quality, cost-effective primary and preventive care to the hardest-to-reach populations across the Nation, recruiting and retaining health professionals where they are most needed and empowering communities to develop long-range solutions to their health needs.

Health reform should invest in such success by preserving and building upon these programs in preparation for the implementation of reform so that

universal coverage will truly guarantee access to quality care for everyone.

One of the things that I liked best about the community health center movement is that they have spurred the development of so many individuals. I am certain without a doubt that I would not be standing here today as a Member of the United States Congress had I not gotten involved with the community health center movement in my community that not only brought services, but also provided opportunities for individuals to be trained, for individuals who had never been in the health business to develop careers.

I remember some of the great training programs that the association developed where individuals could go off to the University of Michigan and acquire a master's degree in public health on the weekends while working in their local centers.

□ 2200

Or they could go out to the University of California for six-week periods at a time and acquire Master's degrees in health administration while retaining the job that they had back in their local communities.

So I am so pleased that one of the real people who have seen these developments is also here to join with me this evening, in the person of the esteemed Representative from the State of South Carolina [Mr. CLYBURN]. We will be delighted to have him join and share with us.

Mr. CLYBURN. Mr. Speaker, I am pleased to be here this evening with my good friend, the gentleman from Illinois [Mr. DAVIS] and to thank him for all of his historical work in the field of community health centers.

I want to say to him tonight that one of the most pleasant things for me to find out was, as I was working my congressional district a few months ago, to find out from so many of my constituents that he is considered a real hero among the people in this field. I am honored that he has asked me to join with him tonight in this special order.

Community health centers have long been the sole means of medical attention for millions of Americans. For that reason alone, we should be very careful to afford them the resources needed to continue their services. Community health centers offer a wide range of services, including dental care, health education, community outreach, transportation, and various support programs. In many communities, health centers work in collaboration with other organizations such as the local schools, Head Start programs, and homeless shelters, just to name a few.

As events of the past few days have proven, many of us are driven by numbers, so let me share some numbers with you concerning community health centers of the last year alone. Nine hundred forty community health centers served almost 10 million people nationwide. In my home State of South

Carolina, there are 17 community health centers which are private, not-for-profit businesses owned and run by the local communities.

In 1996 they provided primary and preventive health care services at more than 60 locations. These health clinics served more than 152,000 patients, many of whom would not have otherwise received medical care. More than 50,000 children, 85,000 adults, and 15,000 elderly South Carolinians depended on the health professionals in their community health centers for their medical care and made over a half million visits to them.

In the Sixth Congressional District, which I am proud to represent, there were over 68,000 people in community health centers last year. Many of these people are children, some pregnant women, many uninsured, many minorities, many from rural areas, many from low-income households, and many Medicaid recipients.

In my district, the Franklin C. Fetter Family Health Center in Charleston County had over 100,000 visits last year, the highest in the State. Another center in my district, the Family Health Center, Incorporated, in Orangeburg, served over 34,000 individual patients, another record high in the State.

Now, I share these numbers with my colleagues to illustrate the value my constituents place on these local health centers. Nationwide, over 50,000 people are employed in community health centers. In South Carolina, that translates into more than 900 jobs and over \$53 million being pumped into the State's economy. There is tremendous return on our investment in health centers. Every \$100 million invested brings an additional \$200 million in other resources into our communities. I think that my colleagues will agree with me that that is an investment worth making.

Mr. Speaker, community health centers play a vital role in our Nation, our States and, more importantly, in our local communities. I am pleased to join tonight with my good friend the gentleman from Illinois [Mr. DAVIS] to ask that this Congress continue to work toward the adequate funding of these unique and vital community institutions.

I thank the gentleman for allowing me the time.

Mr. DAVIS of Illinois. Thank you so much. I really appreciate your being here.

You mentioned Franklin C. Fetter. I remember when that center started, and I remember that it had a director who was there for a long period of time, just an outstanding gentleman. I am thinking of people that I knew then in South Carolina, like Georgia Goode and Tom Barnwell, I mean, people who were so committed and so dedicated and gave so much of themselves to make sure that these centers got started and that they continue.

Who was the gentleman I am trying to think of?

Mr. CLYBURN. Mr. Speaker, if the gentleman will yield, he may recall that that movement in South Carolina started with an effort in Beaufort County, the Beaufort-Jasper Comprehensive Health Care Center. That occupied significant amounts of our time trying to pull all of that together, and it finally got put together. Tom Barnwell, as you know, for many, many years directed that effort. It came about because Senator HOLLINGS took it upon himself to go and visit rural Beaufort County and drew the Nation's attention to the health care problems in rural South Carolina.

When that attention was focused, a lot of people were a bit upset, thinking that this was a negative for Beaufort. But when the Congress saw, it responded, and what looked like a negative turned out to be a tremendous positive not just for Beaufort County, but then it moved from there to Franklin Fetter.

I think my colleague may be talking about Dr. Leroy Anderson.

Mr. DAVIS. Dr. Leroy Anderson.

Mr. CLYBURN. He directed that for a long period of time, and of course the Franklin Fetter Center started out working with migrants. It was my opportunity to serve for a number of years as the director of the South Carolina Commission for Farm Workers, and of course part of our work was on James Island and Johns Island and Yonges and Edisto Islands, trying to work with migrants who came into the area following the stream up from Florida, as well as seasonal farm workers. We found tremendous health needs among this rural part of Charleston county.

Of course, Franklin Fetter was born there, and from there it has moved to Charleston's east side to focus on the urban aspects of these problems. The center is still there, enjoying a tremendous work and, of course, working with us now, we are about to establish a similar center in north Charleston. Thanks to the mayor and the council of north Charleston there, they have come forward to provide the building for us to put the center in.

When we see these kind of efforts, it is not just about health care, it is about getting communities to work together, getting people to focus on needs that go beyond health, health being the method by which we get them organized. I think that your work with my friends in South Carolina, and of course I better mention, because also in my district, in fact, I spent last Saturday afternoon with the people in Eastover, where we have a similar center. Mr. Brown, who directs that, they were very pleased with the recent grant they got to help with their work.

So I want to thank my colleague because, as I move throughout the district, I am amazed at the number of people. I am glad he lives in Illinois. Do not move to South Carolina, because I find it a little bit difficult, people think so much of you there for the work that you have done in this field.

I think that health care is so fundamental to everything that we do, so I want to just thank my colleague for all that he has done.

Mr. DAVIS of Illinois. Mr. Speaker, reclaiming my time, the gentleman from South Carolina [Mr. CLYBURN] is just so on target, and again, I want to compliment him. I also want to compliment him because we recently just finished an outstanding legislative weekend of the Congressional Black Caucus, and he was the chairperson of that activity. Every place that I go back in my district in Chicago and out in the suburban areas and throughout the country, there are people who tell me what an outstanding weekend they thought it was, and I always say to them, "Well, one the reasons is the fact that we had an outstanding chairman." So I commend him for that.

Mr. CLYBURN. Thank you.

Mr. DAVIS of Illinois. My colleague jogged my memory, he started talking about Dr. Anderson and I remembered other people, like Dr. Stephen Joseph; Jack Geiger; Count Gibson; Jerry Ashford out of Boston, who became the first director of the association; Dr. Sam Rodgers from Kansas City, where they eventually named a center there for him; Dr. Charles Swett out of Chicago; Clifton Cole out of Los Angeles, who became the first president of our association; Dr. Batcheler from Detroit; a woman named Earline Lindsey out of Chicago; another lady, Delores Lindsey out of Cincinnati; and Pepper Jacques out of Detroit; and Eloise Westbrook from out in San Francisco; and Harvey Holzberg out of New York; and Tom van Koffenen, who now directs the association, who came on and has been there I guess now 25 years or so, continuing to advocate, continuing to develop, to plan, to orchestrate and to provide technical assistance and help these centers to grow.

Because even though we have experienced a tremendous amount of success, there are still 43 million medically underserved people in this country, and these are people who do not have adequate access to health care services and often have poor health status. It is critical that health reform include special measures to meet their needs if our goal of cost containment is to be realized.

The underserved are exactly the ones who end up on emergency room doorsteps. Studies have shown, for example, that up to 80 percent of emergency room visits in underserved visits are non-urgent care. If the underserved do not have their preventive and primary health care needs met in health reform, then our goal of cost containment will be unattainable.

Health centers have shown that we give top quality care and constrained cost for our communities. For example, inpatient hospital admission rates for health center patients have been up to 67 percent lower than for those served by other providers, including hospital outpatient departments or private phy-

sicians. I do not know if you can get much better than that.

The length of stay for hospital patients served by health centers has been found to be only one-third as long as that for patients who are seen by outpatient departments and half as long as that of outpatients served by private physicians. Studies have also shown that regular use of a health center has produced a 33-percent savings to Medicaid on both per case and per person yearly basis. This is for total costs for all services.

□ 2215

Health centers are among the few Federal programs that empower communities to craft long-range solutions to their health problems. By law, of course, health centers must be governed by a board of directors, a majority of whom must be patients of the facility. Only through the health center programs are consumers in the driver's seat of their primary care delivery site. And only through health centers are underserved communities assured that their primary care provider will respond to their specific needs. It is for these reasons and others that health centers have attracted such broad bipartisan support.

Virtually all major health reform proposals introduced in the Congress over the past few years have included funding and other provisions for community health centers. That means that a majority of the Members of this House, whether they be Democrats or Republicans or Independents, have stated that they think health centers are the best hope for addressing the needs of the underserved populations. When it comes to access to care, health centers are something we can all support.

Most of these legislative proposals have called for efforts to respond to the needs of underserved Americans in 3 very important ways. First, they have called for an expansion of the community health center program, including flexible authority to make grants to other community based providers and to establish community owned and operated networks and plans consistent of safety net providers.

Secondly, they have included provisions encouraging managed care plans to include health centers in their provider networks and to make sure that these providers are not put at undue risk. This will preserve the existing safety net primary care infrastructure in underserved areas and assure their full participation in the new health system.

Thirdly, they have encouraged the inclusion of health centers in health professions education and training. This will ensure that primary health care professionals are trained and practice in underserved areas where they are most needed. This is a critical point in the history of the health center movement. It demonstrates that to get health care to the people who cannot afford it, the Federal Government



must chip in a critical share. It comes in the form of health center operating grants. The best action we can take for those health professionals who want to give something back to their communities is to ensure a broad base of federally assisted community based providers in underserved areas. This will give these professionals a place to train and practice with the quality care environment and all the supports they will need.

The health centers in my home State are all jewels. As a matter of fact, they are indeed worth their weight in gold. They are cost effective, responsive to community needs, and the patients just love them. I cannot think of much more that we could ask of a group of providers. And so I would certainly want to urge this Congress and all of my colleagues to continue to provide the support that has been provided over the years and let us continue with one of the most effective programs that we have ever seen for the provision of quality comprehensive health care to large numbers of poor people in this country.

I really thank the gentleman from South Carolina [Mr. CLYBURN] for sharing. It is also an indication of caring. If the gentleman has got some other comments, please go right ahead.

Mr. CLYBURN. I thank the gentleman so much. I am just pleased to be a part of this because, as we have discussed in passing, this is something I very much have been involved in over the years. I was just so pleased to find that the gentleman had such a rich and hands-on involvement. To have someone like the gentleman as an advocate in this area is something that makes me feel much more comfortable with our efforts. I just want to thank the gentleman for letting me be here tonight to join with him and to call upon our colleagues to continue this great work.

Mr. DAVIS of Illinois. I thank the gentleman. I will just make a little special recognition to a few of the community health centers that operate in my district. I always say that I have the most fascinating district in the United States of America. These people have simply gone above and beyond being just good providers of primary care.

For example, under the tireless leadership of Berniece Mills-Thomas, executive director of the Near North Health Service Corporation which provides primary care to women, infants, school age children and their parents, we have seen that infant mortality has gone down significantly in the area that they service around Cabrini Housing Development. Actually they have reduced infant mortality over the years from 26.6 per 1,000 live births to now 12.8 per 1,000 live births. That is an outstanding indicator of the impact, of the effectiveness.

The Winfield Moody, I can remember traveling around the country with Mrs. Moody as they were getting that com-

munity's health center started. And we have the Erie Family Center under the strong leadership of Rupert Evans, who is the executive director. This center has done an outstanding job of providing care to the communities in and around it, Humboldt Park, West Town. Plus the Erie integrated care program is the only bilingual primary care provider serving HIV and HIV/AIDS infected patients in the city of Chicago. They have a great pediatric program.

We also have a number of other centers, such as the Daniel Hale Williams Center, the Mercy Diagnostic, the Sinai Family Centers, which just received a substantial grant of \$8 million not very long ago to continue its great work, the Alivio Medical Center, Circle Family Center, the Mill Square Health Center, Komeda, New City, the Cook County Network. All of these are centers that provide not only the best of care but also opportunities for people to work, for people to have jobs, for people to plan, for people to serve on the boards of directors, to make decisions, to decide what their neighborhoods and communities will be.

And so in its 30th year, I just thought that this would be an excellent time to stop and pause and pay tribute to this great group of centers that are operating and remember some of the individuals who made it happen, people out of New York like Paul Mejias and Janice Robinson, Curtis Owens from Philadelphia, Dan Cantrell from Chicago, Dave Simmons from Boston, Aaron Shirley from Jackson, Mississippi, Melba McAfee from Jackson, Mississippi, and other people from all over the country. I just hope that some historian who has been involved in the efforts is writing a history so that 100 years from now when we look back and look at where health care has come and look at our health care delivery systems, we will recognize the tremendous role that the community health center movement has played.

Mr. Speaker, I would like to include some additional documents here that I would like to insert:

"The American Health Care Revolution and the Critical Role of Health Centers."

"Health Centers Are Unique in Structure and Mission."

"Why Health Centers Work for the Nation."

"Community, Migrant & Homeless Health Centers."

"And from the Bureau of Primary Health Care, its depiction of what the health center movement has meant to primary care services in the country."

"The material referred to is as follows:

#### THE AMERICAN HEALTH CARE REVOLUTION AND THE CRITICAL ROLE OF HEALTH CENTERS

A revolution in the American health care system is well underway and by all accounts will dramatically transform that system over the next few years. More than two-thirds of privately-insured individuals, or 120 million people, are already enrolled in some form of managed care, with continuing substantial annual increases in managed care

enrollment.<sup>1</sup> This revolution has been driven by employers' and insurers' demands that costs be held down or even reduced, and that providers share financial risk. Managed care plans have willingly complied with those demands, bargaining for significant reductions in provider charges or rates. Though doubts continue to persist as to the long-term ability of managed care systems in holding down health care costs, data from 1994 and 1995 show medical cost inflation rates in the single digits for the first time in over a decade. Clearly, the era of open-ended, fee-for-service medicine is over.

While public insurance programs have moved more slowly, they too—especially Medicaid—are now outpacing the private sector in their rates of managed care enrollment. In 1990, a little over 2 million Medicaid beneficiaries were enrolled in managed care plans; that number jumped to an estimated 11 million by the end of 1995<sup>2</sup>. Most of that growth has been accomplished through the use of Medicaid waivers, which the current Administration has granted to more than a dozen states under Section 1115 of the Social Security Act, allowing those states to bypass Medicaid law requirements in establishing state managed care initiatives and other reforms. The recently-enacted Balanced Budget Act of 1997 contains far-reaching provisions that give states substantial flexibility to re-structure their Medicaid programs in order to enroll most of their Medicaid populations in managed care plans.<sup>3</sup>

Under the right circumstances, the American health care revolution can significantly improve both the availability and quality of health care for most Americans while containing costs by reducing the provision of unnecessary or inappropriate care. However, the success of both private market and public financing reforms could be significantly undermined if adequate attention is not given to two other key factors:

The recent acceleration in the use of Medicaid managed care raises questions as to whether the managed care industry has the capacity and infrastructure to absorb millions of patients who differ dramatically in socioeconomic and health status, education and health care needs from their traditional enrollees, and experience numerous barriers to access to health care services—making them among the most difficult-to-reach and needy patients in the health care system.<sup>4</sup> Medicaid beneficiaries and other low income Americans have higher rates of illness and disability than other Americans, and thus accumulate significantly higher costs of medical care.<sup>5</sup> By contrast, most managed care organizations have, until recently, principally focused their enrollment and infrastructure in reasonably affluent, healthy, well-educated suburban patient bases. Therefore, in implementing Medicaid managed care programs, states are moving millions of individuals into health care delivery systems which have had little experience in providing care to them. Without an adequate infrastructure, this difficult-to-reach and needy population may be denied access to basic health care.

At the same time, more than 43 million Americans have no health insurance and that number is rising by more than 100,000 each month.<sup>6</sup> A recent report found that the uninsured are almost twice as likely to lack a regular source of care, have fewer ambulatory visits, and have a higher rate of medical emergencies, than those who have insurance. They frequently depend on hospitals and emergency rooms for even basic care often due to severe shortages of appropriate primary health services in their communities<sup>7</sup>.

Footnotes at end of article.

As more privately-insured Americans join managed care plans, and as plans increasingly demand maximum cost-efficiency from their providers, providers will be less able to provide care to individuals who are uninsured or whose insurer pays less than the cost of care that is provided (as is true of both Medicare and Medicaid today).

Clearly, the long-term success of the American health care revolution will depend upon steps to assure the availability, and encourage the use, of cost-effective preventive and primary health care for uninsured low income working families; and the key to the longer-term survival of managed care organizations will be the adequacy of their Medicare and Medicaid enrollees' access to lower-cost primary and preventive care, as well as their expertise in managing enrollee costs. To be successful in these efforts, the new American health care system and its managed care plans will need the resources and know-how of providers that have a history of cost-effective, quality service to Medicaid beneficiaries and other low income populations—providers such as America's Health Centers.

#### WHY HEALTH CENTERS?

For more than 30 years, Health Centers have served as "managed care" providers for publicly-insured and uninsured families. Nationwide, 2700 local health center service sites currently deliver preventive and primary health care to more than 10 million people—including 3.8 million Medicaid recipients, 1 million Medicare beneficiaries, and 4.2 million people who have no health insurance—in urban and rural underserved communities across the country. The underlying goal of the health center programs has been to help communities and their people to take responsibility for their health; toward that end, the programs have facilitated the flow of public and private resources, enabling the communities themselves to establish and operate health centers and to develop innovative programs to meet their health needs.

Health Centers have historically operated with very limited budgets and have developed considerable expertise in managing patients with significant health needs in low cost settings, providing access to primary and preventive health services. With literally thousands of communities across the country suffering from acute shortages of cost-effective preventive and primary health care service providers, with the numbers of uninsured Americans rising each month, and with cost controls making it increasingly impossible for other providers to continue offering care to those without coverage, health center programs are today, more than ever, critical to the success of the new American health care system. This is especially true because health centers:

Are, by law, located exclusively in rural and inner city communities that have been designated as "medically underserved," because they have far too few "front-line" providers and poor health status indicators. In these communities, health centers are frequently the only available and accessible primary care provider.

Care for those whom other providers do not serve because of their high costs and complex health needs.

Offer high quality preventive and primary health care under one roof, in a "one-stop caring" system.

Have had a major impact on the health of their communities and provide care in a highly cost-effective fashion.

#### HEALTH CENTERS ARE A PRIVATE SECTOR ALTERNATIVE

Although health centers have a broad, prevention-focused perspective on many health

problems, they are much like private medical practices, staffed by physicians, nurses, and other health professionals. They differ from private medical practices, however, by their broader range of services, such as social service and health education, and by their management structure. Health centers are owned and operated by communities through volunteer governing boards composed of leaders and residents of the communities they serve. They function as non-profit businesses with professional managers; purchase goods and services; provide employment; and make an economic impact within their community.

Because they exist to serve their communities, health centers are committed to seeking out and combining resources from a variety of sources to ensure that access to primary health care services is made available to all community residents, regardless of their financial or insurance status. Patients who can afford to pay are expected to pay. Medicare and Medicaid patients are always welcome. And insurance companies are billed on behalf of patients with coverage. The centers' Board and staff also work to obtain support from other sources, such as local governments and foundations, to ensure that care is available for all patients based on ability to pay.

In order to maximize limited resources, these private, non-profit community practices have developed community linkages with local health departments, hospitals, nursing homes, pharmacists and others to ensure that services are coordinated and to eliminate duplication of effort. Although some services may not be available on-site, the health center does coordinate care and referrals to other providers in a way that assures true "one stop caring" for its patients.

#### HEALTH CENTERS ARE FOUND WHERE THEY'RE NEEDED MOST

By law, all Health Centers must be located in and serve medically underserved areas and/or populations—and their 2,700 sites are split evenly between rural and urban communities. The residents of these communities suffer from the most profound shortage of accessible primary health care services and, not surprisingly, exhibit some of the most severe health problems and the poorest health status of all American communities.

More than 43 million people, living in these inner-city and rural communities, remain seriously medically underserved because of special needs or circumstances<sup>8</sup>.

They are overwhelmingly members of low income families, and are disproportionately young.

Many are uninsured, but 60 percent of them already have some form of insurance (including Medicare and Medicaid).

Many live and work in areas with too few providers of care, while others face serious non-financial barriers to care (such as language or physical disabilities), or have complex health and social problems.

In simplest terms, the medically underserved are people who can't get care when they need it, and when it is most appropriate—to prevent the onset of a health problem or illness, or to diagnose and treat a condition in its earliest stages—because of who they are, where they live, or because of their health status. Two recent reports found that, even when insured, these Americans continue to face significant barriers to care, especially to primary and preventive health services, and as a result have measurably poorer health outcomes and overall health status.<sup>9</sup>

#### HEALTH CENTERS SERVE THE MOST VULNERABLE OF ALL

Health center patients are almost universally among the most vulnerable of all un-

derserved people in America today—persons who even if insured, nonetheless remain isolated from traditional forms of medical care because of where they live, who they are, and their frequently far greater levels of complex health care needs:

Fifty percent reside in isolated rural areas; the other half live in economically depressed inner city communities.

Virtually all patients have family incomes below 200 percent of the federal poverty level (\$28,700 annually for a family of four in 1994).

Nearly one in two is completely uninsured, either publicly or privately, and more than one-third depend on Medicaid.

44 percent of all patients are children under 18, and thirty percent are women of childbearing age (nearly one in ten is pregnant). Health centers delivered over 400,000 babies last year—10 percent of all births and 1 in 5 low income births<sup>10</sup>.

Because of factors such as poverty or homelessness, and other social-environmental threats that permeate low income/underserved communities, health center patients are at higher risk for serious and costly conditions (such as asthma, tuberculosis, or high-risk pregnancies) than the general population, and require unique health services not typically offered by traditional providers, including most managed care entities.

#### HEALTH CENTERS ARE CLINICALLY EFFECTIVE

Health centers provide more than just care for illness or episodic conditions. They offer a "health care home" for all residents of an underserved area. Like any good family doctor's office, they provide ongoing care and health management for families and individuals through all life stages. Care is provided in the office whenever possible; physicians are on the medical staffs of their local hospitals; and referrals to other providers are made whenever needed.

Health center practices are staffed by a team of board certified or board eligible physicians, physician's assistants, nurses, dentists, social workers and other health professionals. In rural areas, physicians are typically family practitioners, while larger urban centers are usually staffed with interdisciplinary teams of internists, pediatricians, and obstetricians. Almost 98% of the more than 5,000 health center physicians are board-certified or eligible<sup>11</sup>, and all are required to have hospital admitting privileges.

The hallmarks of effective primary health care are the entry point it provides into the entire system of care, its comprehensiveness, continuity, and responsiveness to the needs of the patients served. Because primary care must be patient-centered to be effective, it is not the same for everyone—one size cannot fit all. Local centers have developed special intervention programs for significant health care needs in their community, including strong obstetrical practices to fill a gap in their community or a special focus on patients with diabetes, or hypertension or AIDS. Many centers have developed special outreach programs to help overcome the cultural and language barriers faced by people who speak little or no English in obtaining primary health care access<sup>12</sup>.

Centers also emphasize services designed to enhance the effectiveness of the medical care provided, such as community outreach, health/nutrition education, and case management. Some 98 percent of health centers offer health education services; over 90 percent offer case management services; more than three-quarters offer preventive dental services and in-house laboratory services. All health centers employ outreach and patient relations workers from the communities they serve<sup>13</sup>.

Health centers are required by the U.S. Public Health Service (PHS) to update their

quality assurance program and health care plan in response to annual community need assessments, and are required to report to PHS outcome measures, including immunization rates, low birth weight reduction, hospital admission and length of stay<sup>14</sup>.

Available literature provides extensive documentation of the quality and effectiveness of care offered by health centers, using factors such as patient health outcomes, satisfaction and health status of the community. These studies provide strong evidence that where there is a health center, the level of health of the community is dramatically improved. For instance:

**Infant mortality:** Communities served by health centers have been shown to have infant mortality rates from ten to forty percent lower than communities not served by health centers. The provision of health center services also has been linked to improvements in the use of prenatal care and reductions in the incidence of low birthweight<sup>15</sup>.

**Incidence of disease/hospitalization:** Health centers have been shown to reduce rheumatic fever and untreated middle ear infections in children and have significantly increased the proportion of children who are immunized against preventable disease<sup>16</sup>.

**Use of preventive care:** Health centers have increased the use of preventive health services such as Pap smears and physical exams<sup>17</sup>.

**Effectiveness of care:** Health center patients have been shown to have lower hospital admission rates, shorter lengths of stay and make less inappropriate use of emergency room services<sup>18</sup>.

Two recent (1994 and 1995) system-wide studies of thousands of Medicaid patient medical records in Maryland found that health centers scored highest among all providers for the proportion of their pediatric patients who had received preventive services, including immunizations; and that health centers consistently scored at or near the highest in 21 separate measures of quality assessment, even though their costs of care were among the lowest of the various provider types reviewed<sup>19</sup>.

Health center patients are also overwhelmingly satisfied with their care and treatment. According to a 1993-1994 nationwide study of health center patients conducted by the Picker/Commonwealth Fund: 96% of health center patients were very satisfied or satisfied with the quality of their care; 97% would recommend the health center to friends and family; 95% receive regular health care services, even when they are not sick (preventive and primary care services); 87% have never had a concern or complaint.

#### HEALTH CENTER COST-EFFECTIVENESS IS SECOND TO NONE

Health centers are subject to ongoing Federal scrutiny of their cost-effectiveness and quality of care. Cost screens applied to health centers by the U.S. Public Health Service and the Health Care Financing Administration, such as administrative costs and costs per patient visit, are virtually unparalleled in the health care industry. The result is that health centers provide quality, comprehensive primary care to some of the hardest-to-reach patients in the health system at a price second to none. Several recent studies have found that Medicaid patients who regularly use health centers cost significantly less than those who use private primary care providers, such as HMO's, hospital outpatient units or private physicians. For instance:

In Washington state in 1992, health center patients were found to be 36% less expensive for all services than patients of other primary care providers and used 31% fewer emergency room services<sup>20</sup>;

In California in 1993, health center patients were 33% less expensive overall (controlling for maternity services), and had 27% less total hospital costs<sup>21</sup>;

In Maryland in 1993, health center patients had lowest total payments; lowest ambulatory visit cost; lowest incidence of inpatient days and lowest inpatient day cost; health center patients were one-third as likely as hospital outpatient unit patients to be admitted on an inpatient basis and were half as likely to have unstable chronic medical diagnoses as patients of other providers<sup>22</sup>;

In New York in 1994, health center patients were 22-30% less expensive overall, and had 41% lower total inpatient costs; diabetics and asthmatics who were regular health center users had 62% and 44% lower inpatient costs, respectively<sup>23</sup>.

These findings are consistent with those from dozens of previous studies on the cost-effectiveness and quality of care provided through the health center model, and in particular addressing the health centers' demonstrated and historic savings to state Medicaid programs. Taken together, these studies have found that:

Use of health centers led to lower utilization of more costly emergency rooms, ranging from 13 percent to 38 percent in the case of pediatric emergency room use.<sup>24</sup>

Health centers have reduced inpatient admission rates for their patients by anywhere from 22 percent to 67 percent, reduced the number of patients admitted per year and the length of stay among those who were admitted.<sup>25</sup>

Health centers have achieved such tremendous success because, like managed care organizations, they are a first point of entry for their patients into the health care delivery system, and they manage their patients' care to keep them healthy and out of costly emergency rooms, hospitals, and specialists' offices. They are also experienced in the management of health care costs, since they must run their programs within a limited annual budget.

Health centers are well tested and highly successful models of community-based health care. They are partnerships of people, governments, and communities working together to meet local health care needs in an culturally competent, effective and efficient way. Health centers develop primary care infrastructure in areas of the nation that need it most with limited Federal assistance. Federal grants to health centers average less than \$100 annually per patient. This represents a small investment for what centers accomplish in strengthening community health and fostering prevention and health education.

#### THE HEALTH OF EACH HEALTH CENTER IS ALWAYS LEADERSHIP AND ACCOUNTABILITY

Health centers are professional health care organizations providing a comprehensive range of high quality services for their community. But their most distinctive feature is that the health centers are developed and run by their communities, and are dedicated to the needs of their people. Health center governing boards are composed of local community leaders and residents who care about the primary health care access needs of their community and are committed to working together to make a difference. Federally funded centers are required to have patients as a majority of their governing board members.

The empowerment and involvement of local citizens in planning and governance has been the essential characteristic that has made it possible for health centers to make a real difference in underserved communities, in terms of both the sense of ownership they help foster and the tangible bene-

fits they yield. In recent years, the role of community governance has achieved increased recognition and respect, especially because it promotes direct involvement by local residents in developing the services they use. Because of their commitment to their local communities, health centers have become an effective solution for primary health care access in thousands of communities across the nation, affirming their vital role in America's future health care system.

#### THE HEALTH CENTER EXPERIENCE: LIMITED INVESTMENT GENERATES OUTSTANDING SUCCESS

Health center achievements over the past 30 years show how much is known about how to make a difference in the health of the poor and how far even a modest investment will go.

Every Federal dollar invested in health centers leverages another two dollars in other revenues—in addition to the Medicare and Medicaid savings they produce. Health centers understand and respond to their communities' most urgent health care needs. Health centers care for those whom other providers cannot or will not serve. Health centers offer high quality medical care. Health centers have had a major impact on the health of their communities and provide care in a highly cost-effective fashion. There is no better health care bargain anywhere—public or private.

Perhaps the greatest testament to the unique ability of health centers to design services that are accessible to their patients is that, ironically, health centers report that for every 10 patients currently served there are another 3 on local centers' waiting lists who are seeking care there<sup>26</sup>. And those on health center waiting lists do not even begin to take into account the far larger number of persons who need the services of health centers but who do not have a center within reach—particularly in the nearly 1,000 underserved U.S. counties that today have no health center<sup>27</sup>.

#### HEALTH CENTERS CAN DO SO MUCH MORE

As policy makers consider options for improving the reach and effectiveness of America's health care system, they would do well to seriously consider including steps to:

Expand the network of health centers to ultimately reach all medically underserved people and communities. With current funding, health centers are able to reach just 9 million of the 43 million medically underserved Americans who would benefit from their services. This effort could be accomplished incrementally over several years, with each additional \$100 million in funding for health centers extending services to an additional 1 million people in some 400 communities.

Assist health centers to fully participate in managed care, by allowing them to form or join Provider Sponsored Networks as fully integrated partners, and by ensuring that any Medicaid or Medicare reforms include supplemental payments to health centers—in addition to other reimbursements from Medicare or Medicaid, or from managed care plans—for the purpose of making sure that health centers receive sufficient funds to adequately care for their Medicaid patients. Without sufficient resources to meet the needs of their patients, centers and clinics would be forced to substantially reduce their services and patient loads (mostly uninsured patients), and many could go out of business.

Involve health centers in the training of the enhanced primary care workforce required for the future, by making teaching health centers eligible for direct payment of their health professions teaching costs. The Council on Graduate Medical Education (COGME), as well as the Institute of Medicine, and the Physician Payment Review

Commission, have recommended revision of current GME policies to support expanded primary care and ambulatory training programs; and health centers represent the ideal site for training in comprehensive preventive and primary ambulatory health care, because they have an established history of functioning as interdisciplinary care environments, providing quality, comprehensive primary and preventive care.

Health centers provide comprehensive, continuous care to their patients regardless of insurance status or ability to pay. It is this ability to offer continuous care that makes the health centers unique and particularly valuable. Health centers form a critical base on which to build managed care systems for low-income and medically underserved populations. Already, health centers are managed care providers for over 1.5 million Medicaid patients, and that number is expected to more than double over the next year or two.

The road to long-term managed care plan viability and effectiveness can be made smoother by the inclusion of health centers in managed care networks. As experienced and effective health care providers to the medically underserved, health centers can provide the primary care infrastructure network which managed care systems need to provide cost efficient quality health care. Health centers have much to offer managed care systems and stand ready to collaborate with them.

#### NOTES

<sup>1</sup>"Market Strategies and the Growth of Managed Care", Paper Presented by Howard Bailit, D.M.D., Ph.D., Senior Vice President for Health Services Research, Aetna Health Plans, to the Annual Meeting of the Association of Academic Health Centers, September 29, 1994.

<sup>2</sup>Testimony of Bruce Vladeck, Administrator, Health Care Administration (HCFA), before the House Committee on Government Reform and Oversight, January, 1996.

<sup>3</sup>See Subtitle H of Title IV of P.L. 105-33, the Balanced Budget Act of 1997.

<sup>4</sup>Holahan, Liska and Obermaier, *Medicaid Expenditures and Beneficiary Trends, 1988-1993*; Report to the Kaiser Commission on the Future of Medicaid by The Urban Institute, September 1994.

<sup>5</sup>*Health Insurance of Minorities in the U.S.*, Report by the Agency for Health Care Policy and Research, U.S. Department of Health and Human Services, 1992 and *Green Book, Overview of Entitlement Programs Under the Jurisdiction of the Ways and Means Committee*, U.S. House of Representatives, 1994.

<sup>6</sup>Employee Benefits Research Institute, *Sources of Health Insurance and Characteristics of the Uninsured*, EBRI Special Report and Issue Brief No. 158, February, 1995.

<sup>7</sup>Baker, Laurence, and Baker, Linda, "Excess Costs of Emergency Department Visits for Non-urgent Care," *Health Affairs*, Winter 1994: 162-171.

<sup>8</sup>Hawkins, Daniel, and Rosenbaum, Sara, *Lives in the Balance: A National, State and County Profile of America's Medically Underserved* (National Association of Community Health Centers, 1993).

<sup>9</sup>Grumbach, Kevin, et al., *Primary Care Resources and Preventable Hospitalization in California*, CPS Report, California Policy Seminar, May 1995; and Kohrs, Francis P., MD, and Mainous, Arch G., PhD, "The Relationship of Health Professional Shortage Areas to Health Status," *Archives of Family Medicine*, Vol. 4, August 1995: 681-685.

<sup>10</sup>Data from 1995 health center reports to the Bureau of Primary Health Care, HHS.

<sup>11</sup>Data from Bureau of Primary Health Care, 1994.

<sup>12</sup>See *Community and Migrant Health Centers: Critical Components of Health Reform* (National Association of Community Health Centers, 1993).

<sup>13</sup>Lewin-ICF, 1991 Survey of Health Centers.

<sup>14</sup>See *Program Expectations for Community and Migrant Health Centers*, Bureau of Primary Health Care, HHS (1994).

<sup>15</sup>Grossman, Michael, and Goldman, Fred, "An Economic Analysis of Community Health Centers," National Bureau of Economic Research (1983); see also Schwartz, Rachel, and Poppen, Paul, *Measuring the Impact of Community Health Centers on Pregnancy Outcomes*, Abt Associates (1982), and M.B. Wingate, et al., "Obstetric Care in a Family-Health Oriented Neighborhood Health Center," *Medical Care* 14, 4 (April 1976): 315-325.

<sup>16</sup>Mary E. Biscoe et al., "Follow-up Study of the Impact of Rural Preventive Care Outreach Program on Children's Health and Use of Medical Services", *American Journal of Public Health* 70, 2 (February 1980): 151-156; Theodore J. Columbo et al., "The Effect of Outreach Workers' Educational Efforts on Preschool Children's Use of Preventive Services", *American Journal of Public Health* 69, 5 (May 1979): 465-468; and David L. Cowan et al., "Impact of a Rural Preventive Care Outreach Program on Children's Health," *American Journal of Public Health* 68, 5 (May 1978): 471-476; and Leon Gordis, "Effectiveness of Comprehensive Care Programs in Preventing Rheumatic Fever", *New England Journal of Medicine* 289, 7 (August 16, 1973): 331-335.

<sup>17</sup>Sheils A. Gorman and Hannah Nelson, "Meeting the Data Needs of Neighborhood Health Centers," (Presented at the 102nd meeting of the American Public Health Association, 1984); and John C. Hershey and John R. Moore, "The Use of an Information System for Community Health Services Planning and Management," 13 *Medical Care* (February 1975): 114. See also Joel J. Alpert, et al., "Effective Use of Comprehensive pediatric Care", *American Journal of Diseases of Children* 116 (November 1968): 529-533; and Theodore J. Columbo, et al., "The Effect of Outreach Workers' Education Efforts on Use of Preventive Services by a Poverty Population," (Presented at the 104th meeting of the American Public Health Association, 1976).

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America's Health Centers are comprised of Community, Migrant and Homeless Health Centers and other federally-qualified community-based providers. In a thirty-year his-

tory, they have shown the value and strength of a health system rooted in community partnership and built on the delivery of accessible, quality primary care to Americans in need. Today, this growing nationwide network delivers primary and preventive care to more than 10 million medically underserved people—spanning urban and rural communities in all fifty states, the District of Columbia, Puerto Rico, Guam and the Virgin Islands.

#### HEALTH CENTERS ARE UNIQUE IN STRUCTURE AND MISSION

Health centers are public-private partnerships. They are nonprofit, private corporations, which are locally-owned and operated by the communities they serve.

Health Centers serve in medically underserved communities—America's inner cities, migrant farmworker communities, and isolated rural areas. They are defined areas with few or no physicians—suffering high levels of poverty, infant mortality, elderly, and poor health.

Health centers are governed by consumer boards—composed of 51 percent patients who represent the community served. This is a powerful link to the community. Consumer governance gives patients and local citizens a voice in the workings of their center—and ensures that care is patient-centered and responsive to diverse cultures and needs within the community.

Health center revenues are multi-sourced. Federal grants on average represent 36 percent of a health center budget. Reimbursement from Medicaid and Medicare constitutes 38 percent. The remainder is leveraged from state and local governments, insurance, and patient fees.

Health centers provide care to all who seek their service. Patients are charged on a sliding fee scale to ensure that income or lack of insurance is not a barrier to care. Federal grants received by centers subsidize the cost of care provided to the uninsured—and the cost of services not covered by Medicare or Medicaid or private insurance.

#### WHY HEALTH CENTERS WORK FOR THE NATION

Health centers fill critical gaps in health care. Health centers serve low-income working families, the uninsured as well as high-risk populations such as the homeless, the frail elderly, migrant farmworkers, and poor women and children. They are people who confront barriers to care and whose unmet health needs represent a huge and growing cost to the nation.

Health Center Patient Profile: Virtually all health center patients have family incomes below 200 percent of the federal poverty level. More than two in five are completely uninsured. More than one-third depend on Medicaid. 70 percent of health center patients are children and poor women of childbearing age. 60 percent of health center patients are members of racial and ethnic minorities at high risk. Nearly half a million of our patient population are migrant farmworkers and their families.

Health Centers are built by community initiative. A limited federal grant program provides seed money. The purpose: to empower communities themselves to find partners and resources to develop centers—to hire doctors and needed health professionals—and to build their own points of entry into the nation's health care delivery system.

Health centers focus on wellness and prevention—the keys to cost savings in health care. Through innovative programs in outreach, education, and prevention centers reach out and energize communities to meet critical health needs and promote greater personal responsibility for good health.

Health centers produce savings. Their skills and experience are unsurpassed as providers of quality, cost-effective health care to high-risk and vulnerable populations.

#### HEALTH CENTERS MAKE A DIFFERENCE

**Cost effectiveness:** Health centers provide cost-effective high quality care—second to none. Total health care costs for center patients are on average 40 percent lower than for other providers serving the same populations. Centers also achieve significant savings by reducing the need for hospital admissions and costly emergency care.

**Improving Access:** Health centers bring needed health services and facilities to areas of greatest need—often not served by traditional providers. They train, recruit, and retain highly-skilled health professional in acute shortage areas.

**Quality Managed care:** Health centers provide comprehensive primary and preventive care. Ninety-eight percent of health center physicians are board certified/eligible. Centers are linked to hospitals, health departments, nursing homes, and other providers as well as social service agencies to ensure that patients have access not only to primary care but a continuum of coordinated care, including special treatment and support services.

**Accountability:** Health centers meet high uniform standards of accountability and performance. Health centers demonstrate the effective utilization of public and private investment as reflected in positive health outcomes; a 40 percent reduction in infant mortality; improved immunization and prenatal care rates; and increased use of preventive health services.

#### OTHER KEY FACTORS

Health Centers empower Communities. They provide jobs and generate new investment into devastated and poor communities. Health centers employ over 50,000 community residents. They are the nation's leading trainer and health career path for minority health professionals. Their total operating budget of \$2.8 billion leverages over \$14 billion in economic development in needy urban and rural areas—Which translates into jobs, facilities and contracts.

Health Centers are vital safety net providers for millions of poor Americans. They are frontline providers of care helping communities attack costly and compelling health problems such as AIDS, substance abuse, teenage pregnancy, and crime. But, they are more than just providers. They are catalysts—empowering communities with the resources, jobs/education—and leadership—that can improve health and bring new promise to America's disadvantaged.

Community, Migrant and Homeless Health Centers and other community-based providers comprise America's Health Centers. In a thirty year history, they have shown the value and strength of a health system rooted in community partnership—and built on the delivery of accessible, quality primary care to Americans in need. Today, this growing nationwide network delivers primary and preventive care to more than 9 million medically underserved people—spanning urban and rural communities in all fifty states, the District of Columbia, Puerto Rico, Guam and the Virgin Islands.

#### WHY HEALTH CENTERS WORK FOR THE NATION

Health centers fill critical gaps in health care delivery. Health centers serve low-income working families, the uninsured as well as high-risk populations such as the homeless, the frail elderly, the disabled, migrant farmworkers, and poor women and children and others. They are people who confront barriers to health care—and whose unmet

health needs represent a huge and growing cost to the nation.

Health centers are built by community initiative. A limited federal grant program provides seed money. The purpose: to empower communities themselves to find partners and resources to develop centers—to hire doctors and needed health professionals—and to build their own points of entry into the nation's health care delivery system.

Health centers focus on wellness and prevention—the keys to cost savings in health care. Through innovative programs in outreach, education and prevention—centers reach out and energize communities and their people to meet critical health needs and promote greater personal responsibility for good health.

Health centers produce savings—in Medicare and Medicaid—and preventive care. Their skills and experience are unsurpassed as providers of quality, cost-effective health care to vulnerable populations. A track record of accomplishment demonstrates that prevention and primary care works: It keeps people healthy—It saves tax dollars—It builds stronger communities.

Community Partnership is the dynamic that drives the success of America's Health Centers. Health centers are partnerships of people, governments, businesses, communities working together to expand access and to improve health.

#### HOW HEALTH CENTERS ARE UNIQUE—IN STRUCTURE AND MISSION

Health centers are public/private partnerships. They are nonprofit, private corporations, which are locally owned and operated by the people and communities they serve.

Health centers are governed by consumer boards—composed of 51 percent patients—who represent the community served. This is a powerful link to the community. It not only gives patients and local citizens a voice in the workings of their center—but ensures that care is patient centered and responsive to diverse cultures and needs within the community.

Health centers revenues are multi-sourced. Federal grants on average represent 36 percent of a health centers budget. Reimbursements from Medicaid and Medicare constitute 38 percent. There remainder is leveraged from state and local governments, private contributions, insurance and patient fees.

Health centers serve in medically underserved communities—America's inner cities—migrant farmworker communities—and isolated rural areas. They are defined areas with few or no physicians—suffering high levels of poverty, infant mortality, elderly and poor health.

Health centers provide care to all people who seek their services. Patients are charged on a sliding fee scale to ensure that income or lack of insurance is not a barrier to care. All patients pay something toward the cost of their care. Medicare and Medicaid as well as private insurance are billed for those with coverage. Federal grants received by centers subsidize the cost of care provided to the uninsured—and the cost of services not covered by public or private insurance.

Health center care is patient centered and community directed. Centers provide additional services of outreach—transportation and translation—education, and case management—to maximize effectiveness in producing long-term, positive health outcomes for high-risk populations. Health centers also deal with costly community health problems such as teenage pregnancy, infant mortality, homelessness, substance abuse, AIDS and others.

Today, a cost-conscious nation is looking to the success of the U.S. health center

model, which has produced the markers to an effective alternative in accessible, affordable community based care. This model has shown that it takes more than governments to solve the problems in health care; that people and community partners must be involved to protect health—to realize cost savings—and to make health care delivery work for more Americans.

#### HOW HEALTH CENTERS MAKE A DIFFERENCE

**Cost Effectiveness.** Health centers provide cost-effective, high-quality health care—second to none. Total health care costs for center patients are on average 30 percent lower than for other providers serving the same populations. Centers also achieve significant savings by reducing the need for hospital admissions and costly emergency care.

**Improving Access.** Health centers bring needed health care services and facilities to areas of greatest need—often, not served by traditional providers. They train, recruit, and retain highly skilled health professionals in acute shortage areas.

**Quality Managed Care.** Health centers provide comprehensive primary and preventive health care. Ninety-eight percent of health center physicians are board certified/eligible. Centers are linked to hospitals, health departments, nursing homes and other providers as well as social service agencies to ensure that patients have access not only to primary care, but a continuum of coordinated care, including specialized treatment and support services. Numerous independent studies document that health centers improve the health of their communities—reducing preventable deaths, costly disability, and communicable disease.

**Accountability.** Health centers meet high, uniform standards of accountability in terms of cost effectiveness and quality care under the Public Health Service Act. Centers are subject to periodic reviews and federal audits, and are required to submit comprehensive health plans detailing health services in their geographic area, demonstrating need and demand, and showing the impact of their intervention. Health centers demonstrate effective use of resources and public and private funds.

**Empowerment.** Health centers empower communities to take charge and meet health needs. They engage citizen participation and involvement—facilitate the flow of public and private investment into communities—and generate jobs and new community development.

**Opportunity.** Health centers contribute to the well being and strength of communities. By providing cost-effective prenatal care—health centers reduce the high costs associated with adverse pregnancy outcomes. By keeping children healthy—centers enable them to stay in school and train for the future as responsible members of the community. By keeping workers healthy—health centers reduce absenteeism and help workers remain productive and contributing citizens.

**Investment.** Health centers yield a substantial return on public and private investment. They are more than providers. Health centers are community assets that improve health—provide jobs—strengthen schools—stabilize neighborhoods—and enhance community pride.

#### COMMUNITY, MIGRANT AND HOMELESS HEALTH CENTERS—UNITED STATES

(Presented by: Thomas J. Van Coverden, president and chief executive officer, National Association of Community Health Centers, Inc.)

#### HISTORICAL BACKGROUND AND DEVELOPMENT

Community and Migrant Health Center programs were established by the federal

government in the decade of the sixties. Conceived as part of a war on poverty, the programs were a major social experiment joining the resources of the federal government and local communities to expand quality and accessible health care to Americans in need.

Health centers were the product of two powerful forces. Social unrest was erupting in riots for lack of jobs, opportunities, and health care in inner cities. Reform-minded physicians and nurses were calling for a better way to deliver health care by reaching out into communities in need and attacking the problems underlying poverty.

This step in U.S. health care was historically significant. For the first time, resources were committed by the federal government to assist local communities in development of a community-based primary care infrastructure to serve medically underserved populations. Experimentation with a new model of health care marked recognition of large gaps in America's health delivery system. It confronted the reality that even with expansion of public health insurance to cover broad segments of the poor and elderly, millions of Americans and their families would still lack access to doctors and basic health services because of poverty, cultural, and geographic barriers. Moreover, it conceded that a national war on poverty to help all Americans to education and job opportunities and a better standard of living would never be won without a frontal assault on the problems of inadequate health care.

Federal grants to public and nonprofit entities for the development and operation of neighborhood health centers (later called community health centers) were made available in 1965 under the Office of Economic Opportunity (OEO). The first two neighborhood health centers opened in rural Mississippi and in a public housing project in Boston, Massachusetts. While services were directed to the poor and near poor, centers also provided care to individuals who could pay all or part of the cost of their health care. During the early years, grants were awarded to established medical entities such as hospitals, health departments, and medical schools. Later this orientation was to change to nonprofit community groups, which reinforced independent, local control over health centers; community management; and a focus on tailoring health services to specific community needs.

A similar program of grants for the development of migrant health centers was authorized by the U.S. Congress with enactment of the Migrant Health Act in 1962. Centers were to provide medical and essential support services such as translation, outreach, and social service linkages to the nation's migrant and seasonal farmworkers and their families.

Steadily and with growing local and congressional support, both the migrant and neighborhood health center programs took root. By the mid-1970's and phaseout of the OEO, about 100 neighborhood health centers were in operation, mainly in poverty-stricken inner cities and isolated rural areas.

#### PHASES OF HEALTH CENTER DEVELOPMENT

1965-1975: a period of demonstration projects, with authority broadly defined, but calling for targeted focus on the needs of the poor, accessible health care services plus outreach and full integration and coordination with community resources, and community participation.

1975-1980: a period of growth with enactment of permanent legislation laying the foundation for community health centers with establishment of standards of clinical practice and administrative efficiencies related to fee schedules, billings and collections, patient care, administrative cost limi-

tations, productivity, and hospital linkages as well as consumer board involvement.

1981-1990: a period of retrenchment and consolidation for health centers fending off reduced funding and conversion of health center grants to state block grants until 1986.

1990-Present: a period of expansion and public recognition with changes in federal reimbursement policy for health centers requiring full cost-reimbursement for services rendered to Medicaid and Medicare patients, and federal malpractice coverage for centers and their clinical staffs.

Health centers have evolved through the years into a dynamic and expanding network of locally-owned, nonprofit community-based health providers. Their mission is a provide comprehensive primary and preventive care to America's poor and underserved. America's health center network, today, is comprised of federally-assisted community and migrant, and homeless health centers as well as other community-based health centers, which are qualified under the Medicare and Medicaid laws.

Nationwide 2200 health center service sites deliver primary and preventive health care to almost 8.8 million people in urban and rural underserved communities. More than 7.5 million people obtain care from health centers that receive funding from the four principal health center grant programs administered by the U.S. Public Health Service: Community Health Centers; Migrant Health; Health Care for the Homeless; and Health Service for Residents of Public Housing. Another 1.3 million persons receive care from other federally qualified centers that do not receive federal grant funds. Health centers are located in all fifty states including the District of Columbia and the American territories of Guam, Puerto Rico, and the Virgin Islands.

In Fiscal Year 1995, Congress appropriated \$757 million for the support of America's health center programs. It is a modest sum in public investment given that health centers have been given the challenging task of providing care for some of America's poorest, sickest, and hard-to-reach populations. The typical budget of an urban health center is \$3.7 million; a typical rural health center budget is \$1.6 million. The average health center operates with a main facility and three to four satellite delivery sites, which are all located in the center's service area. The collective budget of the nation's health centers, inclusive of grants, Medicare and Medicaid reimbursements, and other revenues approximate \$2 billion annually, which is less than one-fourth of one percent of total U.S. health care expenditures.

In structure, health centers are public/private partnerships. They nonprofit corporations, locally owned and operated by the people and communities they serve. Their revenue base is multisourced. Federal grants, on average, represent 36 percent of a health center's budget. Reimbursements from Medicaid, the public insurance program which pays for the care of many low-income and poor, on average, accounts for 33 percent of a health center's budget. Medicare, which insures the nation's elderly, is approximately 5 percent of a health center's budget. State and local government contributions as well as foundation and private donations average about 11 percent of a health center budget. Eight percent of a health center budget is derived from private insurance and about 7 percent is from patient fees.

#### SERVICE CHARACTERISTICS

The health center mission is to promote high quality, comprehensive health care that is accessible, culturally and linguistically competent, and community directed for all medically underserved populations.

Health centers are required to provide a broad range of primary and preventive health services including physician, physician assistant and nurse clinician services; diagnostic laboratory and radiology services; perinatal services, immunizations, preventive dental care, disease screening and control, case management, emergency medical services, and family planning services, and hospital referrals.

The focus of health centers is prevention and health care access. Centers emphasize services that are designed to enhance access and the effectiveness of medical care through outreach, transportation services, health/nutrition education and case management. Some 98 percent of health centers offer health education services; over 90 percent offer case management service; more than three-quarters offer preventive dental services and in-home laboratory services. All health centers employ outreach and patient relations workers from the communities they serve. Health centers recognize that the risk factors and pervasive needs of patients from low-income underserved communities require health services not typically offered by traditional providers.

Health centers promote community directed responsive, patient-centered care. Special intervention programs are frequently developed by local health centers to address significant community health needs such as teenage pregnancy/infant mortality, AIDS, substance abuse, hypertension, diabetes. Centers also organize the provision of services to ensure that medical care is available at convenient times, and in locations that take into account the special needs of the populations they serve. Many centers offer evening and weekend hours for working families; provide care at multiple sites; use mobile clinics to reach rural and homeless patients, and employ multi-lingual staffs or translators to overcome barriers faced by people who speak little or no English. Bilingual physicians are available at 63% of health centers. All health centers have a 24 hour system for after-hours calls and emergencies.

Health Centers are appropriately linked to hospitals, health departments, nursing homes, and other providers and social service agencies for emergency and specialty referrals as well as counseling and other assistance as may be needed by patients. The goal is to ensure that patients have access not only to primary care, but a continuum of coordinated care, including specialized treatment and support services.

Health centers serve in areas of greatest need. By law health centers are mandated to serve urban and rural communities that have been designated as "medically underserved"—areas suffering acute physician shortages, with high levels of poverty, elderly, infant mortality, and/or poor health status. Health centers are equally distributed between urban and rural areas. Half are located in isolated rural areas, the other half in economically-depressed inner cities. In these locations, they are often the only available and accessible primary care providers for the patients they serve.

America's health centers are able to reach 20 percent of America's 43 million medically underserved. They are America's poor and vulnerable—persons who even if insured, nonetheless remain isolated from traditional forms of medical care because of where they live, who they are, and frequently, their far greater levels of complex health care needs.

Virtually all patients have family incomes below 200 percent of the federal poverty levels (\$28,700 annually for a family of four in 1994).

Nearly one in two is completely uninsured, either publicly or privately, and more than one-third depend on Medicaid.

44 percent of all patients are children under 18, and 30 percent are women of child-bearing age (nearly one in ten is pregnant).

Over 60 percent of health center patients are members of racial or ethnic minorities, compared to 26.3 percent for the nation's population as a whole.

Health Centers improve access to care. Within available resources, health centers must serve all who seek their services. Patients are charged on a sliding fee scale to ensure that income or lack of insurance is not a barrier to care. All patients pay something toward the cost of their care. Medicare and Medicaid as well as private insurance are billed for those with coverage. Federal grants received by health centers subsidize the cost of care furnished to the uninsured, and additional services not covered by public or private insurance.

#### ORGANIZATION AND ADMINISTRATION

Health centers recruit, train, and retain health professionals. They bring physicians and health professionals and needed services and health facilities to people not served by traditional providers. Health center practices are staffed by a team of board certified or board eligible physicians, nurses, physician's assistants, nurses practitioners, nurse midwives, dentists, social workers and other health professionals. In rural areas, physicians are typically family practitioners, while larger urban centers are usually staffed with multi-disciplinary teams of internists, pediatricians and obstetricians.

Health centers employ 5000 physicians. Almost 98 percent are board certified or eligible and all are required to have hospital admitting privileges. The number of other health professions serving the nation's health centers is approximately 6200.

Health center physicians and staff are salaried employees. Salaries are negotiated and paid out of budget by the individual health center entity. In some cases, staff services may be contracted. The National Health Service Corps (NHSC) also provides a source of doctors and other health care professionals who serve in health centers in partial obligation to repay government student loans and/or educational scholarships. Approximately 1900 NHSC primary care providers serve in underserved/shortage areas. Health center employment for Community and Migrant Health Centers alone is more than 35,700 with a total health center payroll of \$1.4 billion.

Health centers are governed by volunteer consumer boards, composed of leaders and residents of the communities they serve. A unique and distinguishing feature of health center boards is that a majority of board members (51 percent) must be patients of the center and who, as a group, represent the community of patients served. The remaining members of the board must be individuals who are actively engaged in the community with local government, finance and banking, legal affairs, business and/or cultural and social endeavors. At present, there are a total of 12,500 health center community board members.

Health center boards foster community ownership and local participation. Health center boards meet on a regular basis and are responsible for the approval of the health center budget; financial management practices; the establishment of center policies and priorities; personnel policies, including the hiring and firing of the executive director; evaluation of center activities, including program services and patient satisfaction; and health center compliance with applicable federal, state, and local laws and regulations. Health centers are managed by a team led by an executive director or chief executive officer, including a clinical/medical di-

rector responsible for clinical programs and a chief financial officer with responsibility for fiscal affairs.

Health centers meet high national standards of accountability. They are subject to ongoing federal scrutiny of their cost effectiveness and quality of care. Health centers are required to periodically report to the government on services, utilization, quality measures (for perinatal, pediatric, adolescent, adult and geriatric services, low birthweight, and infant mortality, and hospital admissions and length of stay), financial management and status, billings and collections, and patient satisfaction. In addition, they are required to submit comprehensive health plans for their geographic area detailing services, demonstrating need and demand, and showing the impact of their intervention.

Health centers hold an unparalleled 30 year track record of providing quality and cost-effective care. Studies demonstrate that health care costs for health center patients are on average 30 percent lower than for other providers serving the same populations. Health centers also achieve significant cost savings by reducing the need for hospital admissions and costly emergency care. The federal grant cost for each patient cared for by health centers is less than \$100 annually; and the total cost of health center services amounts to less than \$300 when compared to other providers serving similar populations.

Independent studies further document the success of health centers in achieving positive health outcomes. Communities served by health centers have cut infant mortality rates 10-40 percent as compared to those that are not served by health centers. In addition, centers have increased the proportion of children who are immunized and have increased the use of preventive health services such as Pap smears and physical exams. Patients also have expressed overwhelming satisfaction with the care they receive in health centers.

#### COMMUNITY PARTNERSHIP

Health Centers Empower the Community. The empowerment and involvement of local citizens in planning and governance has been the basic characteristic that has made it possible for health centers to make a difference in medically underserved communities in terms of the community ownership they foster and the tangible benefits they yield. The community is directly involved in every aspect of center operations—from setting policy to staffing vital services, from providing information on community needs to determining whether the center is properly responding to those needs.

Health center governing boards, composed of community leaders and patients/residents, engage citizen participation and responsiveness to local health needs. In turn, health centers are an integral part of their communities—providing meaningful jobs for local residents, a means to attract investment and other business and forms of community/economic development, a base for community advocacy and action, and a source for developing community leaders and giving them recognition and stature in the community.

Health center board members and staff are vital to building community ties and partnerships. They are actively involved with schools, hospitals, state and local health departments, community groups, businesses, churches and others in developing health/education programs, identifying community health needs, and creating integrated health networks to enhance service capacity. They reach out to the greater community leveraging support, additional resources, and investment in health center programs. Suc-

cessful collaborative efforts, for example, are currently helping 337 health centers access free prescription drugs for low-income patients. Center ties with universities and medical schools are fostering the training of leaders in community-based health care and promoting health centers as recognized environments for the training of needed primary care physicians.

Health centers are advocates for the patients and the communities they serve. As a nationwide network, they are using their experience, expertise and ideas to help communities and governments leaders find solutions to health care needs. Through education, communication, and interaction, they are telling their remarkable story of success in serving medically underserved populations—making this nation aware that programs in primary care, outreach and prevention work are essential to expanding access and building stronger and healthier communities.

#### SUMMARY

America's health centers are tested models of community based care. They are partnerships of people, governments, and communities working together to meet health needs. In three decades of growth and development, health centers have become an integral part of America's health delivery system serving as a safety net for the nation's poor and medically underserved.

America's health centers have yielded a substantial return on public and private investment. They have proven that the special needs of high-risk and vulnerable populations can be met with quality, dignity, and cost-effective health care. In their committed work, they have produced compelling evidence showing the dollar value of their programs, the cost savings to communities, and the positive case-by-case outcomes of primary care intervention.

Yet, health centers confront serious challenge as the health care industry rapidly consolidates to contain costs and the federal government moves to reduce public spending and shift greater responsibility for health care and other social programs to the states and private sector. The reality is that health centers are being thrust into a price-driven, competitive health care market. In a new managed care environment, centers are being forced to compete not only for scarce resources, but for paying/insured patients and market base, which are vital to their financial viability and their continued ability to serve the poor and uninsured.

While America's health centers are determined to survive, the problem is that they face large and well-financed providers such as HMOs and other conglomerates, who are now tapping the Medicaid market and competing for lucrative and exclusive managed care contracts with States. In some cases, centers are being forced to contract with purchasers and providers for health care whose bottom line is cost and who have little or no interest in paying for a broad range of social and other support services that have traditionally characterized the health center mission, and which have been the hallmark of their success in achieving quality and containing health care costs.

The looming question is whether, in the process of integrating into a managed care market, health centers will be able to retain their unique identity as health care providers. Will health centers be able to access the capital and sources of investment needed for growth and development; improved organizational frameworks to leverage strength and capacity as providers; management and financial skills and advanced technologies to sustain a competitive position? Will health centers have access to adequate resources to



compete for doctors and other health professional staff? Will the federal government continue to support the health center mission to the extent that appropriate funding and safeguards are provided to ensure a level playing field of competition?

Today, health centers are aggressively moving to be part of the evolving health care system. In states and communities across the country, health centers are taking steps to form networks and full managed care plans with other local providers, to negotiate subcontracts with other managed care plans, and to develop the financial, legal, and business acumen necessary to effectively function in the new environment.

Health centers hold many strengths. They are low-cost providers in high-risk markets. Their skills and experience are unsurpassed as providers of patient-centered care to vulnerable populations. They are locally owned businesses and community driven in their approach to meeting health care needs. Health center programs in primary care offer accountability, quality, efficiency and cost savings. In addition, they hold tremendous assets in a nationwide solid infrastructure ready for fast-track development to meet growing health needs.

America's health centers stand prepared to build on their heritage and compete and endure in the future.

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BUREAU OF PRIMARY HEALTH CARE: 43 MILLION PEOPLE LACK ACCESS TO PRIMARY HEALTH CARE

#### UNMET NEED

Forty-three million persons without access to a primary care provider; 41 million persons are uninsured; minority health status disparities.

#### PRESSURES FACING THE SAFETY NET

Reduced Medicaid revenue from managed care; reimbursement rates down; reduction in Medicaid eligibles.

Increase in the number of uninsured served; e.g. health center uninsured up 46% from 1990-96 (national up 16%)

Mergers/Privatization decrease capacity; reduced outpatient provider capacity.

#### HEALTH CENTERS

Private, not-for-profit organizations; true safety net providers, obligated to serve all patients without regard to ability to pay; community-based governing boards, and community supported; located in underserved areas; provide comprehensive care services and enabling services; improve health outcomes and decrease Medicaid costs; 685 center grantees; services provided at 3,032 sites (incl. NHSC); over 10 million uninsured and vulnerable patients served; 33 million encounters in 1996; and 5,500 primary care providers.

#### HEALTH CENTER PATIENT CHARACTERISTICS

42% children; 32% women of child-bearing age; 65% minority; 41% uninsured; and 85% poor and near poor.

#### CHCS AS "ECONOMIC ENGINES"—THE ECONOMIC BENEFIT OF CHCS

CHCs as "employers": CHCs are often one of the largest employers within their immediate service area.

CHCs as "purchasers": CHCs are often one of the largest purchasers of goods and services within their service area.

CHCs represent a significant and vital source of economic inertia for local communities which is consistent with the objectives of emerging economic development initiatives.

#### RESPONSE OF HEALTH CENTERS TO MANAGED CARE

Individual contracts with managed care organizations; Formation of health center-owned health plans and MCOs; and Development of integrated service networks to contract with managed care organizations.

#### MARKET SHARE—HEALTH CENTER-OWNED MANAGED CARE PLANS IN 12 STATES

Number of States: first in market share: Connecticut; New York; California; Massachusetts; Colorado; and Washington

Second in market share: Rhode Island.

Third in market share: Maryland and Oregon.

Fourth in market share: Ohio; Hawaii; and Missouri.

#### SOLUTIONS NOT BUSINESS AS USUAL

Increased partnerships; integrated networks/delivery systems; innovative models of care; and document impact.

#### HEALTH CENTERS

Agents of care.

Agents of change: Integrated delivery system; making system responsive to local needs; and giving communities control.

#### HEALTH CENTERS AS SOLUTIONS

Serve everyone regardless of ability to pay; guaranteed access through enabling services; empower communities; improve health outcomes and lower Medicaid costs; and economic engines and create jobs.

#### THE "COMMUNITY" IN HEALTH CARE CENTERS

The most frequently mentioned aspect of consumer involvement in the health center programs is the fact that a majority of each center's policy, or governing board must consist of persons who are patients of the center and who, as a group, represent the community of patients served there. We use many terms to describe this characteristic of the health centers: consumer-controlled, consumer-directed, community-responsive, and so on. Their majority status on the health center policy boards gives patients control in determining how the centers operate: what services are provided, the locations and hours of operation, the sliding scale fee discount system, the annual budget and program plans. But the real value of this pa-

tient-majority governance system lies in the fact that, as a result of it, the community is given a true sense of "ownership" over the health centers; and this feeling of ownership makes the centers a course of community empowerment, in which the centers serve as the basis and focal point for a whole host of activities that serve the community and its people. When the community is empowered in this fashion, they will actively involve themselves in being a part of its work (a part of the solution, not the problem). They will care for and nurture "their" system of care, and they will fight like hell to keep it going. This experience plays itself out in any number of ways, such as:

Creating a forum for bringing real and immediate problems to the table for action. This clearly happens as a natural part of the regular policy board meetings; but most health centers also reach out to the whole community as part of their needs assessment process. For Asian Health Services, in Oakland, CA, this has meant community meetings conducted in 6 different languages to involve each of the population subgroups they serve: Korean, Japanese, Chinese, Laotian, Cambodian, and Pacific Islander. Their efforts have been rewarded with high community turnout and solid input from the residents.

Getting feedback on the acceptability and appropriateness of services and the centers' program plans. Here again the policy boards provide a vehicle for evaluating the center's responsiveness to the community's needs. Consumer board members bring the community's needs and concerns and complaints about the health center to the board for consideration. This is perhaps the most important role they can play.

Providing a training ground for community leaders and spokespersons—including board members and center employees—and giving them credibility, recognition, and stature in advancing or advocating community needs or concerns.

Providing a means and forum for involving community residents, and the community itself, in the political process and system—at the local, state, and national levels. The critical value of this point is that several individuals in the health center movement have—for perhaps the first time in their lives—involved themselves actively in our American political system. This has helped the movement itself, which has survived and benefitted from their advocacy. Through NACHC and the State Primary Care Associations, community residents have found an invaluable mechanism for taking on critical health policy issues, and winning for their communities. As a direct result of their experience, many health center representatives have become quite involved in local, state, and national politics—for example, former board member Danny Davis is now a Member of Congress; community representative Lenny Walker is now a Rhode Island state representative; and former center Director Harvey Sloane has served as Mayor of Louisville and almost became Kentucky's junior U.S. Senator.

Serving as a conduit of important information to and from the community. Whether this involves information on how to avoid common childhood injuries or potentially serious agricultural accidents, warnings about unsafe water supply sources or the emerging incidence of an infectious disease, or whether the community provides information that the center needs to better serve its needs, the centers can serve as a vital communications link for the entire community. For example, a Brownsville, TX health center brought considerable national attention to a growing local controversy, reported in the New York Times and on ABC's Prime Time

Live, involving the center's report of an abnormally high number of births to babies with severe anencephaly and a possible connection to certain airborne toxins being emitted from nearby chemical plants. Here, obviously, the center is serving both as an information source and as an advocate for its community.

Generating action in response to community needs, even in case where those needs might not appear to be health-related. Whether it is the affordable, low income housing developed by health centers in Boston and Wood River, RI, or the community water supply and sewer systems spawned by centers in Beaufort County, SC, and the lower Rio Grande Valley of Texas, health centers all over the country have played key roles in organizing their communities to address pressing local needs.

Providing jobs and meaningful employment for community residents. In particular, when respected community people are employed and trained by the health center as outreach or community health workers, or as patient advocates, or in any of the dozens of clinical and administrative positions, it can be the start of a long and rewarding health career. Many health center directors today are community residents who have worked their way up the ladder at the health center over the past 15 or 20 years. Employees with the longest tenure at health centers—often dating back to the center's founding—are local community residents. One such person recently stated, "It's been a wonderful experience, working at a great place like a health center, serving the community and helping my neighbors and friends—and being paid a decent salary to boot!"

Serving as a source of information and inspiration—complete with role models—for the community's youth, encouraging them to pursue a health professions career, and showing them how (and where) they could put that professional training to good use by coming back to serve their old neighborhood or town. Dr. Jack Geiger, one of the founding fathers of the health center movement, recently spoke of what he saw as the real successes of one of the country's first centers, in Mound Bayou, MS. In doing so, he noted that the center had either trained or assisted in helping to train the county's first black sanitarian, several of the physicians now working at the health center, and literally dozens of other professionals working there and at other centers across the country.

Serving as an "anchor" in their communities, helping by their presence to attract or retain other local businesses—including other physicians, diagnostic services, pharmacies or other health providers—or to bring in other forms of community or economic development. In a very real sense, many health centers have played pivotal roles in sustaining a sense of "community" in neighborhoods or towns that otherwise might well have completely disintegrated, giving its residents a feeling of pride and a "can-do" attitude, which in turn has led to significant neighborhood or community revitalization.

Thus, the critical, distinguishing factor that separates the health center model of community empowerment from other, less successful models, is that the community has been directly involved in virtually every aspect of the center's operations—from setting policy to staffing vital services, from providing information on community needs to determining whether the center is properly responding to those needs, and, in turn, the health centers have become an integral part of their communities—providing meaningful jobs for local residents, a means to attract other businesses and other forms of community/economic development, informa-

tion and opportunities for pursuing health professions careers, a base for community advocacy and action, and a source for developing community leaders and giving them recognition and stature in the community. The greater the degree of community involvement in the health center, the greater the center's role and strength as a vital part of the community itself.

Today, we are in the midst of sweeping changes in the way health care is both financed and delivered, all across the country. As the numbers of uninsured have reached levels not seen since before the creation of Medicare and Medicaid, and as health care costs continue to skyrocket, health care has reached the "hot button" level as a public policy issue. The growth in HMOs, PPOs, institutional networks, financing bureaucracies, consolidated services, hospital closings and transitions, self-funded insurance plans—all these thing point to major, fundamental shifts in our health care system. By the end of the decade, there will be no more Marcus Welbys, even in group practice form. Every provider—physician, dentist, midlevel—will work for "the man". For us, the big question is who will "the man" be? Will it be the government, an HMO, an institutional network—or the community.

The health center model is our last, best hope for community-directed, community-responsive health care. Health centers may well be the closest things to Marcus Welby in the 21st century—the last real opportunity for the community to have a voice in how its health care system functions and meets their needs. We in the health center movement—yes, we still see it as a movement—have our plan, our Access 2000 plan, to bring top quality health care to all 43 million medically underserved Americans by the turn of the century. It's a hefty order, to be sure, but we are committed to that vision, that struggle; and yet, we cannot succeed without an equally committed band of health professionals—and we need to find and train them in record numbers, if we are to have any chance at success. As our health center movement expands and grows, we will continue to need the best and brightest clinicians, to provide care and leadership.

Mr. TOWNS. Mr. Speaker, I rise to day to urge my colleagues to support Community, Migrant and Homeless Health Centers and other community-based providers that comprise successful models for health care delivery across this Nation.

Community health centers benefit the residents and the areas where they are located in many ways. First, with the partnerships between business, government and the people, community residents have a greater sense of control over the quality of health care and the means of gaining health care. This is particularly shown in the health centers that are governed by consumer boards. These boards, where more than half of the board members are patients, represent the community served and give local residents a voice regarding the programs and center's services. With community representation on these boards, responsiveness is no longer a concern—who best knows what services communities need than the people who reside in the community?

Second, health centers service communities which are traditionally and chronically underserved. Often, the inner cities, migrant farm-worker communities, and isolated rural areas benefit greatly from these health care services. These often forgotten populations also now have access to quality managed care; health centers provide comprehensive primary and preventive health care. All patients, espe-

cially women with their particular health care concerns, can look forward to up-to-date yearly medical exams. We know that the key to health care is taking preventative measures. With community health centers, we can do this by low-income seeing patients early and regularly.

Finally, health centers save money. In total, they provide cost-effective, high-quality health care. The total costs for patients are on average 30 percent lower than for other providers serving the same populations.

Mr. Speaker, I urge my colleagues to support community health centers. In my district these centers have played a vital role, as I am sure they have done in other districts, and we should support them as they continue to support our communities.

#### IN SUPPORT OF OXI DAY

The SPEAKER pro tempore (Mr. BLUNT). Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey [Mr. PAPPAS] is recognized for 60 minutes as the designee of the majority leader.

#### GENERAL LEAVE

Mr. PAPPAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. PAPPAS. Mr. Speaker, today we celebrate Oxi Day which symbolizes the absolute refusal of the Greek people to succumb to Mussolini's Fascist Italy during World War II.

In August 1940, Mussolini accused Greece of supporting Britain and demanded that she renounce the agreement of neutrality with the Allies. In that same month, the Greek Naval Cruiser  *Elli*  visited the island of Tinos during its highest religious holiday, paying a visit to the famous holy shrine there. In a sneak attack, the Italians torpedoed and sank the ship in the harbor. Mussolini also massed more than 150,000 troops on the Albanian border, and the Greek government was only able to place about half that number of its own ready to oppose them. In that tense condition on October 28, 1940, at the undignified hour of 3 a.m., the Italian Ambassador delivered an ultimatum from Mussolini to the Greek government set to expire at 6 a.m. that very same day. The Greek Prime Minister's response was oxi, which means "no" in Greek. The Italian army was well supplied, fully equipped and supported by state-of-the-art air and naval power. They, the Italians, were expected to overrun the Greeks within a short time. Yet before its expiration and without waiting for an official reply, Italian troops invaded Greece across the Albanian border.

Mussolini had expected an easy victory. His troops had penetrated less than 20 miles into Greek territory against light resistance when the

Greeks counterattacked. In spite of the cold and snow in that mountainous region, by the end of 1940 and early 1941, the Greeks had fought their way into Albania and by March, about one-third of Albania was in Greek hands. Hitler did not wait for the outcome. In mid-December 1940, he issued a directive launching Operation Marita to mass German divisions in pro-Axis Romania and then move across the territory of another partner and into Greece if necessary.

The Greek army now had to face the powerful German war machine which was relentless. By the end of April 1941, Greece fell, and the Greek government fled to the island of Crete.

Crete became the next target for the Germans. While this large Greek island was difficult to assault, its strategic position in the Mediterranean made this action necessary. The two poorly equipped Greek divisions were reinforced by British troops. Germany attacked with an awesome force of 600 aircraft and 20,000 crack parachutists and glider borne troops. By the end of May, the Germans were victorious but had lost 7,000 of their men in their fierce fighting against a loss of about 3,000 British and Greek soldiers. Several thousand Cretan civilians were killed in the fighting and reprisals by the Germans on a determined and courageous population defending their homeland was what could follow.

But the real loss to Germany was time. The Greek invasion had used up nearly 2 precious months during which time Hitler's Operation Barbarossa, the attack on Russia, was delayed. The troops ran into the dreadful Russian winter at the end of the year before they could win their hard-fought campaign, resulting in appalling losses and contributing to the ultimate defeat of Germany.

Greece suffered a great famine in 1941 and 1942, under harsh conditions brought about by the combined German, Italian and Bulgarian occupation. It is estimated that more than 300,000 Greeks died of famine. Resistance by Greek partisans also cost thousands of civilian lives in hostile actions and reprisals.

□ 2230

The attack by Mussolini's Italy against Greece on October 28, 1940, was the result of the imperialist and expansionist tendencies of Mussolini's fascist regime. The motives were strategic as well as political. Mussolini's ambition was by invading the strategically-located Greece and the Aegean Islands, especially Crete, to balance the German initiative. Until that move, the Italian initiative was almost nonexistent. Mussolini needed a victory desperately in order to share power with Hitler, who seemed to be the sole and uncontested leader of the Axis alliance.

Although Greece could have remained neutral or simply opened the borders and allowed the Axis forces to march in, instead she chose to stand up

and fight by defending the ideals of democracy, freedom and dignity.

The Greek Army fought an enemy which was superior in numbers, arms and technology. The Greek Army was superior though in spirit, enthusiasm and determination. With the full support of the Greek people, the Greek Army performed one of the most unexpected miracles of modern military history by beating one of the best-equipped and trained armies of that time, Italy.

The heroism of the Greek people, up against unbelievable odds, was the first glimmer of hope for freedom-loving people for the Allies. Americans of Greek descent, in fact, all Americans, can take pride in the sacrifice made by Greek people 57 years and one day ago. While they were defending their country, in reality they helped save Europe and the rest of the free world.

What I have said is fact, not fable. I believe it is important to speak about this because Greece's actions show the world that Greece is an ally that can be counted on through thick and thin, is an ally that fights for principle, no matter what the odds.

Finally, Mr. Speaker, I find it ironic that we are discussing the importance of Oxi Day to the free world when we have two brutal leaders who reject democracy visiting our country. The Premier of China will get a 21-gun salute and be welcomed with open arms by some, despite the well-documented human rights violations, religious persecution, and economic sabotage of the Chinese Government. Moreover, the leader of the invaded area of Northern Cyprus will be in Washington in a desperate attempt to try to find legitimacy to an illegal government created by illegal occupation.

I hope the lessons of Oxi Day and fighting for what is right and standing up to aggressive dictators will not be lost by the world community as these dictators visit our Nation's Capital.

Mr. Speaker, I see that I am joined by my colleague, the gentleman from New Jersey [Mr. PALLONE], and would like to yield to him.

Mr. PALLONE. Mr. Speaker, I thank the gentleman for yielding. I just want to thank my colleague from New Jersey [Mr. PAPPAS] for organizing this special order tonight. I was not here when the gentleman began, so I do not want to repeat what he has already said. But I did want to say that I am proud to join with the gentleman in paying tribute to this great moment in the history of the 20th century, which receives far too little recognition in many of our history texts about World War II.

Throughout history, the Greek people have been champions of freedom and self-determination, and their heroic actions against the forces of Hitler and Mussolini were instrumental in defeating fascism in the 20th Century. I am sure the gentleman mentioned about how when Greece entered the war on the side of the Allies when the

country was invaded by Mussolini's forces, that exactly 57 years ago today on the morning of October 28, 1940, the Italian Minister in Athens presented an ultimatum to Greek Minister Metaxas demanding unconditional surrender. The Prime Minister response to this unacceptable demand was as simple as it was eloquent, "Oxi," or Greek for "No." The Prime Minister and the King both went on the radio that morning to rally the Nation, and a general mobilization was declared.

Mussolini's forces invaded Greece on that fateful day, but there was a very spirited resistance from the Greek people, and then the Greek Army actually launched a counteroffensive, driving the invaders back into Albania. Of course, Hitler's forces eventually came into the war and subdued Greece, but not without significant resistance. In May of 1941, when the Nazis launched an airborne invasion on the Island of Crete on a scale unprecedented in history, the Germans again had to fight a very significant resistance, probably one of the greatest resistances in the whole history of World War II.

I just wanted to say, if I could, to my colleague and to those who are listening this evening, that the heroism with which the Greek people fought essentially delayed Hitler's planned invasion of Russia by about three months, and essentially made it possible ultimately for the Allies to win the war, and made it more difficult for Germany to expand the areas that it sought to conquer.

The Greek resistance movement also continued for four years during the war, and they suffered horrendously for their resistance. The Germans executed thousands of civilians and randomly decimated entire towns, villages and communities. I know that in my district, in Asbury Park, a few years ago I went to a commemoration, I do not remember the details, but a commemoration of one of the smaller towns in Greece that was just totally annihilated, every man, woman and child was killed.

I think we have to resolve that to ensure that the Greeks who fought this resistance movement did not suffer in vain. It is important for us to bring it to the attention of our colleagues and to the American people that we never forget the role the people of Greece played in defeating fascism, and that is why I am very proud this evening to be joining with my colleague from New Jersey in this special order.

Mr. Speaker, I am proud to join with the gentleman from New Jersey [Mr. PAPPAS] and my other colleagues this evening in paying tribute to a great moment in the history of the 20th century which receives far too little recognition in many of our history texts about World War II. Throughout history, the Greek people have been champions of freedom and self-determination. Their heroic actions against the forces of Hitler and Mussolini were instrumental in defeating fascism in the 20th century.

On October 28, 1940, Greece entered the war on the side of the Allies when the country

was invaded by Mussolini's forces, as part of an attempt by the Axis powers to seal off the Balkans from the south in support of Hitler's invasion of Russia. Exactly 57 years ago today, on the morning of October 28, 1940, the Italian Minister in Athens presented an ultimatum to Greek Prime Minister Metaxas demanding unconditional surrender. The prime minister's response to this unacceptable demand was as simple as it was eloquent: "Oxi," Greek for "No." The Prime Minister and the King both went on the radio that morning to rally the nation, and a general mobilization was declared.

Mussolini's forces invaded Greece on that fateful day. Despite their technological superiority, the Fascist invaders faced spirited resistance from the Greeks. On November 14, the Greek Army launched a counter-offensive, driving the invaders back into Albania. In February 1941, the Italian Army launched further attacks, but tough resistance and a harsh winter nullified many of these efforts; a second Italian offensive in March of '41 similarly met with strong Greek opposition. Finally, the Nazi German war machine was mobilized in an effort to rout the Greek opposition, both on the mainland area of Greece and on the island of Crete—in an effort to fulfill Hitler's ominous promise to "make a clean sweep in the Balkans."

It took Hitler's forces some five weeks, until the end of April, to subdue Greece. In May of 1941 the Nazis launched an airborne invasion of Crete on a scale unprecedented in history. With lightning speed, the Germans dropped some 20,000 troops on the island by air; in addition, the Germans and Italians launched a land invasion, sending troops by sea from the occupied Greek mainland. The ensuing battle put up by the people of Crete and other Allied forces against the superior Nazi war machine was one of the most significant of World War II. And though the Germans won the battle and took the island, they did so at the highest possible cost—they would eventually lose the war. Karl Student, the Nazi General in charge of the invasion, called the battle "the fiercest struggle any German formation had ever had to face . . ." The German High Command would never again attempt an operation of that size.

The heroism with which the Greek people fought delayed Hitler's planned invasion of Russia by three months. There were heavy losses on both sides. Strengthened by the knowledge that they were defending a concept—democracy—that had originated from their homeland, Greek civilians, including women, children and the elderly, joined the battle against the Fascists, suffering terrible losses, but also inflicting serious damage on their enemies. The Greek resistance movement for the remaining four years of the war zealously fought the occupying Nazi force. They suffered horrendously for their resistance; the Germans executed thousands of civilians and randomly decimated entire towns, villages and communities. Let us resolve, Mr. Speaker, to ensure that they did not suffer in vein.

We here in Congress should do our best to ensure our citizens never forget the role the people of Greece played in defeating fascism. Indeed, we honor ourselves by honoring not only a Prime Minister, but an entire people who dared to say "Oxi," "No," in the face of a seemingly overwhelming enemy.

Mr. PAPPAS. I thank the gentleman from New Jersey and appreciate his support for these important issues.

Mr. Speaker, we in our country are very fortunate to live in a country that is free, and special orders such as this are certainly significant to what our country was founded upon. I also view this as an educational process for those that may be viewing this around the country, even around the world, that can learn a little bit about the significance of October 28, 1940.

Mr. Speaker, 54 years before Oxi Day, October 28th in 1886, the Statue of Liberty was dedicated. I would just like to quote a saying, a phrase or a series of words that are associated with the Statue of Liberty which I think are appropriate to reiterate here as we commemorate Oxi Day. "Give me your tired, your poor, your huddled masses, yearning to breathe free; the wretched refuse of your teaming shore; send these, the homeless, tempest-tossed to me. I lift up my lamp beside the golden door."

Mr. Speaker, we as citizens of this wonderful country owe a great deal, I believe, to the Greek people. Certainly freedom and democracy around the world owe so much to the Greek people who said "Oxi," who said "No," on October 28, 1940.

Mr. BILIRAKIS. Mr. Speaker, it is an honor to join my friend and colleague from New Jersey, Congressman MIKE PAPPAS, to commemorate "oxi" day. The historical significance of this day and what it meant to the outcome of World War II cannot be overstated.

By October 1940, World War II had begun, and the Nazi war machine was already in high gear. Along with Hitler's ally Mussolini, the German and Italian forces were threatening the whole of Europe. European nations were bowing to tyranny and destruction as the Germans and the Italians marched through Europe.

Great Britain endured Germany's aerial bombardment, forcing Hitler to seek another avenue to subdue the British. Hitler intended to eliminate British operations in the Mediterranean in order to weaken their ability to deter German advances.

To achieve this, Hitler needed the axis powers to strike at British forces from Greece. By conquering Greece, Hitler would gain access to an important connecting link with Italian bases in the Dodecanese (Do-de-ca-nese) Islands. This would give the Italians a strangle hold on British positions in Egypt, where British forces were already facing attack from the Italian Army in North Africa. The British considered the defense of Egypt vital to allied positions in the oil rich Middle East.

On October 28, 1940, the Italian minister in Athens presented an ultimatum to Greek Prime Minister Metaxas (Me-ta-ksas), demanding the unconditional surrender of Greece. Prime Minister Metaxas (Me-ta-ksas) responded with the now historic word "oxi," which means no in Greek. His statement embodied the true spirit of the Greek people. His words of defiance echoed the same devotion and love of country that Greek patriots exhibited during their war of independence against the Ottoman Empire when they shouted the defiant words "Liberty or Death."

Prime Minister Metaxas' (Me-ta-ksas) actions marked the beginning of one of the world's most heroic efforts against tyranny and oppression. After its ultimatum was rejected, it took Italy less than 3 hours to invade Greece.

It is important to note that the population of Greece at the time was only 7 million. On the other hand, Italy's population was 43 million. In addition, the Italian Army had the advantage in military strength and technology.

However, despite their lack of equipment, the Greek army proved to be well-trained and resourceful. Within a week of the invasion, it was clear that Italian forces had suffered a serious set-back, despite having control of the air and fielding superior armored vehicles.

On November 14, the Greek army launched a counter-offensive and quickly drove the Italian forces back into Albania. By December 9, the Greeks had captured the town of Pogradec (Po-gra-des) in eastern Albania. However, a lack of supplies and difficult terrain stalled the Greek march through Albania.

By February 1941, the Italians had launched strong counter-attacks. However, the determination of the Greek army, coupled with the severity of the winter weather, blocked Italy's advances.

In an effort to bring the war to a close before Hitler would intervene, the Italians launched another assault on March 12, 1941. After 6 days of fighting, the Italians had made only insignificant gains, and it became clear that German intervention was necessary.

On April 6, 1941, Hitler ordered the German invasion of Greece. It took the Germans 5 weeks to finally end the conflict.

This delay proved to be critical to the outcome of the war. Italy's inability to capture Greece enabled the British to win major victories against Mussolini's forces in North Africa. This solidified British positions in the region as well as Cyprus. In addition, it contributed to the failure of the German campaign to conquer Russia.

Perhaps most importantly, the Germans never gained the advantage against the British. Although Germany had conquered much of Europe, its inability to decimate British and Russian forces early in the war would eventually prove to be fatal.

Mr. Speaker, "OXI" day is a day that marks defiance against tyranny. As an American of Greek descent and as a lover of freedom, I am proud to honor the memory of those brave patriots who fought for freedom on this important day.

Mr. MANTON. Mr. Speaker, I rise today to commemorate one of the most pivotal events during world War II, Oxi Day. In addition, I thank my colleague, Congressman MICHAEL PAPPAS, for arranging this Special Order to remember this important day.

On October 28, 1940, the Prime Minister of Greece refused to agree with the ultimatum presented to him by the Italian Minister in Athens for the surrender of Greece by stating "OXI", meaning "NO" in Greek. Thereby, resisting and hindering Hitler's plan to invade Russia.

By rejecting this ultimatum, Greece proved its courage, strength, an dedication to preserving democracy. Winston Churchill said it best: "Don't say that Greeks fight like heroes, say that heroes fight like Greeks." The soldiers and statesmen of this great land not only helped Greece and Europe free themselves from the shackles of the swastika, but their actions ensured that the future of democracy and freedom would continue to be strong and grow throughout the world.

Greece is one of only three nations in the world that has allied with the United States in every major international conflict this century. The actions that the Greeks took against the Axis powers, and communist rebels during and after World War II, cost many lives. However, Greece prevailed and emerged as the stronger and victorious democracy it is today.

Mr. Speaker, Greeks from around the world are proud of the actions taken by their home country during World War II. I commend those who struggled, fought, sacrificed and lost their lives in the fight to restore and preserve the liberty and democracy Greeks and Greek-Americans enjoy today.

As a member of the Congressional Caucus on Hellenic Issues, I will continue to work to ensure that the people of Greece continue to enjoy the freedoms they have today and will continue to work with my colleagues to bring justice to the people of Cyprus. The human rights abuses taking place on this island go against everything the soldiers and leaders of Greece fought so hard to save and preserve on October 28th, 1940.

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to the valiant Greek resistance against the Axis powers during World War II. Greece was the last stronghold in Continental Europe to fall to the Axis.

Today marks the anniversary of the Greek refusal of Mussolini's ultimatum to surrender to Italian forces. On October 28, 1940, the Greek government issued a resounding "OXI," (NO) to the Italian Fascists. A month after the invasion began, the last Italian soldier was driven from Greek soil and the Greek army was fighting Italian Fascist forces in Albania.

The rout of Mussolini's forces in Albania required Hitler to divert valuable troops and arms to invade Greece in April 1941. Nazi forces faced fierce resistance in Crete and Macedonia. The Greek campaign delayed the planned invasion of the Soviet Union by several critical weeks.

The Germans were never able to occupy more than two-thirds of Greece. The Greek national resistance continued fighting in the rugged mountain terrain. Greek civilians and clergy sought to protect Greek Jews from the occupying forces at great personal risk.

Hitler diverted 50 battalions from the Eastern front and North Africa to Greece. In 1943, the Nazis were distracted into believing that the main Allied assault would occur in the Balkans, thereby enabling the Sicilian invasion. Greek Army units in exile also played an important role in the Allied campaign in North Africa.

Mr. Speaker, the resounding "No" Greece sent Mussolini 57 years ago marked the beginning of the valiant Greek resistance to invasion and occupation during World War II. Greece proved itself a faithful ally throughout the war effort with heroism and self sacrifice and at great cost in human lives and suffering.

## A VICTORY FOR FAIRNESS AND JUSTICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, today the House rejected by a convincing margin a motion to instruct the conferees on the Commerce, Justice, State appropriations bill, which would have resulted in thousands of legal immigrants being forced to leave the country. I was proud to join with the majority of Members of the House in opposing this proposal. I rise to express my appreciation for the vote today in this body, which represents a victory for fairness and justice.

The result here in this Chamber today also shows that this body can work together in a bipartisan fashion on sensible and fair legislation to maintain the integrity of our immigration laws, while still keeping the doors of immigration open to those who play by the rules.

Speaking in opposition to the motion offered by the gentleman from California [Mr. ROHRBACHER] was a diverse cross-section of Members from both sides of the aisle, including both the chairman and the ranking Democrat of the Subcommittee on Commerce, Justice, State and Judiciary Appropriations, as well as the chairman of the Committee on International Relations and the Democratic leader. Speaker after speaker, Democrat and Republican alike, cited the indisputable reasons for opposing the motion to instruct and for supporting permanent extension of Section 245(i) of the Immigration and Nationality Act in the Commerce, Justice, State and Judiciary Appropriations legislation.

Mr. Speaker, as we heard during today's debate, Section 245(i) allows certain immigrants who have fallen out of status to have their papers processed here in the United States in order to become permanent residents, rather than forcing them to return to their home country to apply.

Those covered by Section 245(i) must pay a \$1,000 fee before obtaining their visa. Last year, these fees generated more than \$200 million for the INS, 80 percent of which is earmarked for INS detention purposes.

Mr. Speaker, 245(i) does not change the order in which a person's visa is processed. Contrary to the claims made by some during today's debate, it does not give illegal immigrants the right to live in the United States.

If we had passed the motion to instruct today, we would have torn families apart and deprived many families of their sole source of support. We would have forced the mother of children who are U.S. citizens to be separated from those children. We would have forced children who have grown up in the United States to wait out their applications for permanent residence in countries they barely know, and deprived many businesses, includ-

ing small businesses of valued employees. We would have lost services of foreign-born doctors, providing much needed care to medically underserved areas, and forced many churches and other houses of worship to lose valued participants, many of whom give their services voluntarily, and we would also have imposed a 30 percent increase in the caseload that our embassies and consulates around the world must deal with.

So I have to say, we have heard strong signals of support for permanent 245(i) from businesses, from churches, from professional organizations, labor unions and community groups. Our State Department has benefited from the \$100 million in additional annual revenues, while the reduced caseload in our consular offices overseas has freed up additional resources for providing resources to Americans traveling abroad and to enhanced anti-fraud efforts.

Given the belt tightening we have imposed on the State Department in recent years, it only makes sense to maintain a program that reduces costs and frees up resources. Mr. Speaker, I heard my colleague from New Jersey talk about the Statue of Liberty. We are a Nation of immigrants. The American dream that attracted many of our ancestors still has profound meaning for people from around the world, from Latin America to Africa, from Ireland to the lands of the former Soviet Union, from India to the Far East.

We must guard against illegal immigration and punish those who deliberately violate our immigration laws, but we should not punish those who came here the right way, who played by the rules and who are simply the victims of an innocent mistake or a bureaucratic error.

Permanently extending 245(i) is not only the rational thing to do from an economic standpoint, it was the morally right thing to do. I was proud to vote to defeat the motion to instruct the conferees. This House, Mr. Speaker, can be proud for defeating this motion and for supporting fair and rational immigration law once again.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. CUBIN (at the request of Mr. ARMEY), from October 21 to the end of the first session of the 105th Congress, on account of medical reasons.

Mrs. KELLY (at the request of Mr. ARMEY), after 6 p.m. on October 28 and today, on account of medical reasons.

Mr. YATES (at the request of Mr. GEPHARDT), after 4 p.m. today, on account of personal reasons.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DAVIS of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. SKELTON, for 5 minutes, today.  
 Ms. NORTON, for 5 minutes, today.  
 Mr. KUCINICH, for 5 minutes, today.  
 Mrs. CLAYTON, for 5 minutes, today.  
 Mr. ROMERO-BARCELÓ, for 5 minutes, today.

Mr. MCNULTY, for 5 minutes, today.  
 Ms. PELOSI, for 5 minutes, today.  
 Ms. DELAURO, for 5 minutes, today.

(The following Members (at the request of Mr. THUNE) to revise and extend their remarks and include extraneous material:)

Mrs. MORELLA, for 5 minutes each day, on today and October 30 and 31.

Mr. SAXTON, for 5 minutes each day, on today and October 31.

Mrs. LINDA SMITH of Washington, for 5 minutes each day, on today and October 30 and 31.

Mr. KINGSTON, for 5 minutes, today.  
 Mr. ENGLISH of Pennsylvania, for 5 minutes, on October 30.

Mr. RIGGS, for 5 minutes each day, on today and October 30 and 31.

Mr. SMITH of Michigan, for 5 minutes each day, on today and October 30 and 31.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mrs. JOHNSON of Connecticut, for 5 minutes, today.

Mr. THUNE, for 5 minutes, today.  
 Mr. GUTKNECHT, for 5 minutes, today.  
 Mr. GOSS, for 5 minutes, on October 30.

Mr. DELAY, for 5 minutes, today.  
 Mr. EWING, for 5 minutes, on October 30.

Mr. SANFORD, for 5 minutes, today.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. GINGRICH and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost \$1,055.)

(The following Members (at the request of Mr. DAVIS of Illinois) and to include extraneous matter:)

Mr. LEVIN.  
 Mr. LIPINSKI.  
 Mr. HAMILTON.  
 Mr. BARRETT of Wisconsin.  
 Mr. STARK.  
 Mr. KIND.  
 Mr. ROTHMAN.  
 Mr. ORTIZ.  
 Mr. DEUTSCH.  
 Mr. KENNEDY of Massachusetts.  
 Mr. KUCINICH.  
 Mr. LANTOS.  
 Mr. PAYNE.  
 Mr. SKELTON.  
 Mr. DELLUMS.  
 Mr. PASCRELL.  
 Mr. VISCLOSKEY.  
 Mr. BLAGOJEVICH.  
 Mr. STOKES.

(The following Members (at the request of Mr. THUNE) and to include extraneous matter:)

Mr. SHAW.  
 Mr. SOLOMON.  
 Mr. CUNNINGHAM.  
 Mr. THOMAS.  
 Mrs. MORELLA.  
 Mr. GALLEGLEY.  
 Mr. GINGRICH.  
 Mr. SENSENBRENNER.  
 Mr. SMITH of Michigan.  
 Mr. SHAW.  
 Mr. BLILEY.  
 Mr. BOB SCHAEFFER of Colorado.  
 Mr. YOUNG of Florida.

(The following Members (at the request of Mr. PAPPAS) and to include extraneous matter:)

Mr. JOHNSON of Wisconsin.  
 Mr. LUTHER.  
 Mr. DIXON.  
 Mr. ENGLISH of Pennsylvania.  
 Mr. SMITH of New Jersey.  
 Mr. BARCIA.  
 Mr. RILEY.  
 Mr. PORTMAN.  
 Mr. BAKER.

#### ADJOURNMENT

Mr. PALLONE. Mr. Speaker, pursuant to House Resolution 286, I move that the House do now adjourn in memory of the late Honorable WALTER H. CAPPS.

The motion was agreed to; accordingly (at 10 o'clock and 43 minutes p.m.), pursuant to House Resolution 286, the House adjourned until tomorrow, Thursday, October 30, 1997, at 10 a.m. in memory of the late Honorable WALTER H. CAPPS of California.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5675. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—APHIS Policy Regarding Importation of Animals and Animal Products [Docket No. 94-106-8] (RIN: 0579-AA71) received October 29, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5676. A letter from the Director, Office of Management and Budget, transmitting a report on appropriations legislation pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (Section 251(a)(7)), as amended by the Budget Enforcement Act of 1997; to the Committee on the Budget.

5677. A letter from the AMD—Performance Evaluation and RECORDS Management, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Section 9 of the Communications Act; Assessment and Collection of Regulatory Fees for Fiscal Year 1997 [MD Docket No. 96-186] received October 28, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5678. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Labeling; Nutrient Content Claims: Definition for "High Potency" and Definitions of "Antioxidant" for Use in Nu-

trient Content Claims for Dietary Supplements and Conventional Foods; Correction [Docket Nos. 95N-0245, 95N-0282, and 95N-0347] (RIN: 0910AA59) received October 28, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5679. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Japan (Transmittal No. DTC-111-97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5680. A letter from the President, Institute of American Indian Arts, transmitting the consolidated report for FY 1997 covering both the annual report on audit and investigative coverage required by the Inspector General Act of 1978, as amended, and the Federal Managers' Financial Integrity Act report, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

5681. A letter from the Acting Director, Office of Personnel Management, transmitting the Office's final rule—Fellowship and Similar Appointments in the Excepted Service (RIN: 3206-AH91) received October 28, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5682. A letter from the Special Counsel, U.S. Office of Special Counsel, transmitting the FY 1997 annual report under the Federal Managers' Financial Integrity Act (FMFIA) of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

5683. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod [Docket No. 961107312-7021-02; I.D. 101697B] received October 28, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5684. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Business Expenses [Revenue Procedure 97-52] received October 29, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER: Committee on Ways and Means. H.R. 2645. A bill to make technical corrections related to the Taxpayer Relief Act of 1997 and certain other tax legislation; with amendments (Rept. 105-356). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MYRICK: Committee on Rules. House Resolution 288. Resolution providing for consideration of the bill (H.R. 2746) to amend title VI of the Elementary and Secondary Education Act of 1965 to give parents with low-incomes the opportunity to choose the appropriate school for their children and for consideration of the bill (H.R. 2616) to amend titles VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools (Rept. 105-357). Referred to the House Calendar.



## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. DEFAZIO (for himself and Mr. HINCHEY):

H.R. 2757. A bill to impose a moratorium on increases in the rates charged for cable television service, to require the Federal Communications Commission to conduct an inquiry into the causes of such increases and the impediments to competition, and for other purposes; to the Committee on Commerce.

By Mr. HOEKSTRA (for himself, Mr. FRANK of Massachusetts, Mr. COLLINS, Mrs. MALONEY of New York, Mr. HILLEARY, Mr. SCHUMER, Mr. COBLE, Mr. CLAY, Mr. BARTLETT of Maryland, Mr. HAMILTON, Mr. DEAL of Georgia, Mr. TORRES, Mr. MANZULLO, Mr. DEFAZIO, Mr. STUMP, Mr. EHLERS, Mr. OXLEY, Mr. HEFLEY, Mr. TAYLOR of North Carolina, Mr. EWING, Mr. UPTON, Mr. EVERETT, Mr. ENGLISH of Pennsylvania, Mr. CHAMBLISS, Mr. LINDER, Mr. NETHERCUTT, Mr. CRANE, Mr. RIGGS, Mr. HOSTETTLER, Mrs. EMERSON, Mr. BILBRAY, Mr. BURR of North Carolina, Mr. KNOLLENBERG, and Mr. BALLENGER):

H.R. 2758. A bill to amend title 18, United States Code, to minimize the unfair competition for Federal contracting opportunities between Federal Prison Industries and private firms (especially small business concerns), to provide to Federal agencies in their dealings with Federal Prison Industries the contract administration tools generally available to assure quality performance by their other suppliers, and for other purposes; to the Committee on the Judiciary.

By Mr. RUSH:

H.R. 2759. A bill to amend the Immigration and Nationality Act with respect to the requirements for the admission of non-immigrant nurses who will practice in health professional shortage areas; to the Committee on the Judiciary.

By Mr. CUNNINGHAM (for himself, Mr. TANNER, Mr. YOUNG of Alaska, Mr. CHAMBLISS, Mr. PETERSON of Minnesota, Mr. HUNTER, Mr. LEWIS of California, Mr. JOHN, Mr. METCALF, Mr. NORWOOD, Mr. BARR of Georgia, Mr. GIBBONS, Mrs. CUBIN, Mr. BOYD, and Mr. POMBO):

H.R. 2760. A bill to amend the Sikes Act to establish a mechanism by which outdoor recreation programs on military installations will be accessible to disabled veterans, military dependents with disabilities, and other persons with disabilities; to the Committee on Resources, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANK of Massachusetts (for himself, Mrs. LOWEY, Ms. NORTON, Ms. FURSE, Ms. PELOSI, Mr. LANTOS, Mr. MEEHAN, Mr. FILNER, Mrs. MALONEY of New York, Mr. DELAHUNT, Mr. NADLER, Mr. OLVER, Mr. SCHUMER, Ms. RIVERS, Ms. VELAZQUEZ, Mr. KENNEDY of Rhode Island, and Mr. WYNN):

H.R. 2761. A bill to provide benefits to domestic partners of Federal employees; to the Committee on Government Reform and Oversight, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each

case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILCHREST:

H.R. 2762. A bill to amend the Federal Water Pollution Control Act to improve the protection of the Nation's wetlands and watersheds, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GOSS:

H.R. 2763. A bill to provide that an annual pay adjustment for Members of Congress may not exceed the cost-of-living adjustment in benefits under title II of the Social Security Act for that year; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HANSEN (for himself and Mr. MEEHAN):

H.R. 2764. A bill to amend the Internal Revenue Code of 1986 to increase the excise tax rate on tobacco products and deposit the resulting revenues into a Public Health and Education Resource Trust Fund, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HILLIARD:

H.R. 2765. A bill to amend the Internal Revenue Code of 1986 to specify certain circumstances that give rise to affiliation or control of a nonprofit organization by a for-profit organization for purposes of denying eligibility for the low-income housing tax credit; to the Committee on Ways and Means.

By Mr. LATOURETTE (for himself, Mr. PORTMAN, Mr. HALL of Ohio, Mr. GILLMOR, Mr. STRICKLAND, Mr. BOEHNER, Mr. KUCINICH, Mr. STOKES, Mr. BROWN of Ohio, Ms. PRYCE of Ohio, Mr. TRAFICANT, Mr. NEY, Mr. OXLEY, Mr. KASICH, Mr. SAWYER, Mr. REGULA, Ms. KAPTUR, Mr. HOBSON, and Mr. CHABOT):

H.R. 2766. A bill to designate the United States Post Office located at 215 East Jackson Street in Painesville, Ohio, as the "Karl Bernal Post Office Building"; to the Committee on Government Reform and Oversight.

By Mrs. MORELLA (for herself, Mr. DAVIS of Virginia, and Mr. MORAN of Virginia):

H.R. 2767. A bill to provide additional compensation for members of the Metropolitan Police Department and Fire Department of the District of Columbia, the United States Secret Service Uniformed Division, and the United States Park Police who carry out certain technical or hazardous duties, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. SANFORD:

H.R. 2768. A bill to provide for the retirement of all Americans; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Rules, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHUMER (for himself, Mr. MEEHAN, Mr. NADLER, Mr. McDERMOTT, Ms. LOFGREN, Mr. MENENDEZ, Mrs. MORELLA, Mr. BERMAN, Ms. KILPATRICK, Mr. GUTIERREZ, Mr. BARRETT of Wisconsin, Ms. FURSE, and Mr. BLAGOJEVICH):

H.R. 2769. A bill to ensure that background checks are conducted before the transfer of a handgun by a firearms dealer; to the Committee on the Judiciary.

By Mr. SHAW:

H.R. 2770. A bill to amend the Tariff Act of 1930 to provide for a deferral of the duty on large yachts imported for sale at boat shows in the United States; to the Committee on Ways and Means.

By Mr. SHAYS:

H.R. 2771. A bill to amend the Harmonized Tariff Schedule of the United States relating to the definition of raw value for purposes of raw sugar import tariff rate quota; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 2772. A bill to establish an Office of National Security within the Securities and Exchange Commission, provide for the monitoring of the extent of foreign involvement in United States securities markets, financial institutions, and pension funds, and for other purposes; to the Committee on Commerce, and in addition to the Committees on International Relations, Banking and Financial Services, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LINDA SMITH of Washington (for herself, Mr. WOLF, Ms. PELOSI, Mr. SMITH of New Jersey, Mr. GEJDENSON, Mr. WELDON of Florida, Mr. SOLOMON, Mr. GILMAN, Mr. HYDE, Mr. COX of California, and Mr. TIAHRT):

H. Con. Res. 180. Concurrent resolution expressing the sense of the Congress that the Government of the People's Republic of China should stop the practice of harvesting and transplanting organs for profit from prisoners that it executes; to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ROS-LEHTINEN (for herself, Mr. BILIRAKIS, Mrs. MALONEY of New York, Mr. PORTER, Mr. ENGEL, Mr. MENENDEZ, Mr. SHERMAN, Mr. RUSH, and Mr. PAPPAS):

H. Con. Res. 181. Concurrent resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enslaved people in the occupied area of Cyprus; to the Committee on International Relations.

By Mr. FAZIO of California:

H. Res. 286. A resolution expressing the condolences of the House on the death of the Honorable Walter H. Capps, a Representative from the State of California; considered and agreed to.

By Mr. GALLEGLY (for himself and Mr. ACKERMAN):

H. Res. 289. A resolution expressing the sense of the Congress that a renewed effort be made to end the violent guerrilla war in Colombia, which poses a serious threat to democracy in regions of Colombia as evidenced by the results of the recent October 26, 1997, elections; to the Committee on International Relations.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Omitted from the Record of October 28, 1997]

H.R. 2009: Ms. RIVERS and Mr. ENGEL.

[Submitted October 29, 1997]

H.R. 12: Mr. FORD and Mr. TOWNS.



H.R. 367: Mr. BILBRAY and Mr. POMBO.  
H.R. 372: Mr. TOWNS, Mr. PETERSON of Minnesota, Mr. FILNER, Mr. DEFAZIO, and Mr. MARTINEZ.  
H.R. 453: Mr. FOX of Pennsylvania, Mr. DICKS, Ms. ESHOO, Mr. SABO, and Mr. FRELINGHUYSEN.  
H.R. 475: Mrs. NORTHUP.  
H.R. 693: Mr. GOSS and Mr. GOODE.  
H.R. 696: Mrs. LOWEY.  
H.R. 768: Mr. TIAHRT.  
H.R. 815: Mr. ROEMER and Mr. HALL of Texas.  
H.R. 820: Ms. DeLAURO.  
H.R. 875: Mr. BILIRAKIS.  
H.R. 979: Mr. BORSKI and Mr. SPENCE.  
H.R. 991: Mr. PALLONE.  
H.R. 1023: Mr. NUSSLE and Mr. KENNEDY of Rhode Island.  
H.R. 1146: Mr. ADERHOLT.  
H.R. 1147: Mr. GOODE.  
H.R. 1200: Ms. RIVERS.  
H.R. 1232: Mr. STOKES, Mr. ENGLISH of Pennsylvania, Ms. NORTON, Mr. SOUDER, and Ms. KILPATRICK.  
H.R. 1289: Mrs. NORTHUP, Mr. FILNER, Ms. DUNN of Washington, Ms. HARMAN, Mr. SCOTT, Mr. LATOURETTE, and Mr. STRICKLAND.  
H.R. 1329: Mr. KILDEE and Mr. MCGOVERN.  
H.R. 1376: Mr. KENNEDY of Rhode Island.  
H.R. 1390: Mr. BENTSEN.  
H.R. 1404: Mr. WATT of North Carolina, Ms. STABENOW, Mr. GEJDENSON, and Ms. HOOLEY of Oregon.  
H.R. 1415: Mr. HINOJOSA, Mr. BLAGOJEVICH, Mr. CANNON, and Mr. PETRI.  
H.R. 1481: Mr. GILLMOR.  
H.R. 1521: Mr. BILBRAY, Mr. BONO, and Ms. FURSE.  
H.R. 1524: Mrs. KELLY and Mr. PAXON.  
H.R. 1531: Mr. SCHUMER.  
H.R. 1541: Mr. STICKLAND.  
H.R. 1608: Mr. PALLONE, Mr. PITTS, Mr. NORWOOD, Mr. STUPAK, and Mr. MCGOVERN.  
H.R. 1628: Mr. SCOTT.  
H.R. 1727: Ms. DeLAURO.  
H.R. 1753: Ms. WATERS.  
H.R. 1754: Mr. DELAHUNT.  
H.R. 1813: Mr. EVANS, Mr. CLYBURN, Mr. POSHARD, Mr. ABERCROMBIE, and Mr. ALLEN.  
H.R. 1836: Mr. ALLEN.  
H.R. 1883: Ms. MILLENDER-MCDONALD.  
H.R. 2072: Mr. LARGENT.  
H.R. 2095: Mr. CHRISTENSEN.  
H.R. 2103: Mr. MORAN of Kansas.  
H.R. 2121: Mr. SHAYS.  
H.R. 2130: Mr. SANDLIN, Mr. MARTINEZ, Mrs. THURMAN, and Mr. JACKSON.  
H.R. 2174: Mr. BURR of North Carolina, Mr. SHERMAN, Mr. ABERCROMBIE, Mr. SANDLIN, and Mr. DEFAZIO.  
H.R. 2183: Mr. TRAFICANT.  
H.R. 2185: Mr. VENTO.  
H.R. 2224: Ms. SLAUGHTER.  
H.R. 2257: Mr. VENTO.  
H.R. 2263: Mr. DIAZ-BALART, Mr. COOKSEY, and Mr. DINGELL.  
H.R. 2292: Mr. FORBES.  
H.R. 2321: Mr. NEY and Mr. PICKETT.  
H.R. 2349: Ms. WATERS.  
H.R. 2380: Mr. FRELINGHUYSEN.  
H.R. 2382: Mr. MCGOVERN and Ms. CHRISTIAN-GREEN.  
H.R. 2428: Mr. BONIOR, Mr. FALEOMAVAEGA, Mr. EVANS, Ms. WOOLSEY, Mr. MANTON, Mr. POSHARD, Mr. MINGE, and Mr. TORRES.  
H.R. 2456: Mr. RAHALL and Ms. STABENOW.  
H.R. 2474: Mr. METCALF, Ms. GRANGER, and Mr. BOSWELL.  
H.R. 2489: Ms. FURSE, Mr. WHITFIELD, Mr. BAESLER, Ms. HOOLEY of Oregon, and Mrs. CHENOWETH.

H.R. 2524: Mr. TORRES, Mrs. THURMAN, and Ms. DANNER.  
H.R. 2560: Mr. SALMON, Mr. TORRES, Mr. JEFFERSON, Mrs. LINDA SMITH of Washington, Mr. DAVIS of Virginia, Mrs. THURMAN, Mr. WATT of North Carolina, Mr. FALEOMAVAEGA, Mr. ORTIZ, Mr. DAVIS of Illinois, Ms. JACKSON-LEE, Mr. CLEMENT, Mr. FORD, and Mr. RANGEL.  
H.R. 2609: Mr. HASTINGS of Washington, Mr. NETHERCUTT, and Mr. HOSTETTLER.  
H.R. 2611: Mr. ISTOOK.  
H.R. 2625: Mr. HUTCHINSON, Mr. UPTON, Mr. EHRLICH, Mr. HASTINGS of Washington, and Mr. BONILLA.  
H.R. 2626: Mr. COSTELLO.  
H.R. 2668: Mr. NEUMANN, Mr. COOKSEY, Mr. CUNNINGHAM, and Mr. BARTON of Texas.  
H.R. 2670: Mr. PAPPAS.  
H.R. 2671: Mr. NETHERCUTT.  
H.R. 2693: Mrs. MEEK of Florida, Mr. ROTHMAN, Ms. MILLENDER-MCDONALD, Mr. MARTINEZ, and Mr. LAMPSON.  
H.R. 2695: Mr. FILNER, Ms. KILPATRICK, and Mr. FROST.  
H.R. 2709: Ms. HARMAN, Mr. SHAYS, Mr. LEWIS of California, Mr. BURR of North Carolina, Mr. LAZIO of New York, Mr. SMITH of New Jersey, Mr. HOYER, Mr. PETERSON of Minnesota, Mr. YOUNG of Alaska, Mr. KUCINICH, Mr. MEEHAN, Mr. NADLER, Mr. CARDIN, Mr. THOMAS, Mr. BLAGOJEVICH, Mr. BENTSEN, Mr. KNOLLENBERG, Mr. BILIRAKIS, Mr. FORD, Mr. HOSTETTLER, Mr. KASICH, Mr. LATOURETTE, Mr. FARR of California, Mr. PORTER, Mr. COOKSEY, Mr. COSTELLO, Mr. WYNN, Ms. WOOLSEY, Mr. DOOLITTLE, Mr. SANFORD, Mr. SHADEGG, Mrs. MORELLA, Mr. RODRIGUEZ, Mr. STUPAK, and Mr. BERMAN.  
H.R. 2717: Mr. FARTTAH and Mr. DAVIS of Virginia.  
H.R. 2739: Mr. DELAY.  
H.R. 2741: Mr. PACKARD, Mr. POMBO, and Ms. SANCHEZ.  
H. Con. Res. 107: Mr. DAVIS of Virginia.  
H. Con. Res. 127: Mr. CRAMER, Mr. LUTHER, and Mr. BACHUS.  
H. Con. Res. 152: Mr. LIPINSKI, Mr. LAZIO of New York, and Mr. PAPPAS.  
H. Con. Res. 156: Mr. BROWN of Ohio, Ms. WOOLSEY, and Mr. FALEOMAVAEGA.  
H. Con. Res. 172: Mr. BEREUTER and Mr. FALEOMAVAEGA.  
H. Res. 211: Mr. HOBSON, Mr. KIM, Mr. MORAN of Kansas, Mr. PETRI, Mr. STUPAK, Mr. TAYLOR of North Carolina, and Mr. WICKER.  
H. Res. 231: Mr. FALEOMAVAEGA.  
H. Res. 247: Mr. LUTHER.  
H. Res. 267: Mr. SNOWBARGER, Mr. BRADY, Mr. COBLE, Ms. PRYCE of Ohio, Mr. HASTINGS of Florida, Mr. DIAZ-BALART, Mr. GILLMORE, Mr. CARPO, Mr. DREIER, Mr. OXLEY, Mr. WICKER, Mr. HASTINGS of Washington, Mr. SHAYS, Mr. PACKARD, Mr. GRAHAM, Mr. ADERHOLT, Mr. ENGLISH of Pennsylvania, and Mrs. MCCARTHY of New York.

#### DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2527: Ms. DeLAURO.

#### AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2493

OFFERED BY: MR. MILLER of California  
*[Substitute Amendment to the Smith (OR) Amendment]*

*[Page & line nos. refer to Union Calendar Print of H.R. 2493, the amendment in the nature of a substitute recommended by the Committee on Resources].*

AMENDMENT No. 12: In section 107(a), strike paragraph (2) (page 36, lines 16 through 20) and insert the following new paragraph:

(2) FEE FOR FOREIGN-OWNED OR CONTROLLED GRAZING PERMITS OR LEASES.—In the case of a grazing permit or lease held or otherwise controlled in whole or in part by a foreign corporation or a foreign individual, the fee shall be equal to the higher of the following:

(A) The average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in the State in which the land covered by the grazing permit or lease are located;

(B) The average grazing fee (weighted by animal unit months) charged for grazing on private lands in the State in which the lands covered by the grazing permit or lease are located.

H.R. 2493

OFFERED BY: MR. MILLER of California

*[Page & line nos. refer to Union Calendar Print of H.R. 2493, the amendment in the nature of a substitute recommended by the Committee on Resources].*

AMENDMENT No. 13: In section 107(a), strike paragraph (2) (page 36, lines 16 through 20) and insert the following new paragraph:

(2) FEE FOR FOREIGN-OWNED OR CONTROLLED GRAZING PERMITS OR LEASES.—In the case of a grazing permit or lease held or otherwise controlled in whole or in part by a foreign corporation or a foreign individual, the fee shall be equal to the higher of the following:

(A) The average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in the State in which the lands covered by the grazing permit or lease are located;

(B) The average grazing fee (weighted by animal unit months) charged for grazing on private lands in the State in which the lands covered by the grazing permit or lease are located.

H.R. 2616

OFFERED BY: MS. HOOLEY OF OREGON

AMENDMENT No. 2: Beginning on page 7, strike line 1 and all that follows through page 8, line 21.

H.R. 2616

OFFERED BY: MS. HOOLEY OF OREGON

AMENDMENT No. 3: Beginning on page 8, line 5, strike "State law regarding charter schools" and insert "enabling State statute".

Beginning on page 8, line 9, strike "State law regarding charter schools" and insert "enabling State statute".

Beginning on page 8, line 14, strike "State law regarding charter schools" and insert "enabling State statute".

Page 8, line 17, strike "to determine" and all that follows through "charter" on line 21.

Page 14, strike line 5, and insert "enabling State statute".

Page 21, line 3, strike "specific" and insert "enabling".

Page 21, line 4, strike "charter school".